Calendar No. 244

104TH CONGRESS, *1st Session* | SENATE | REPORT 104–173

USEC PRIVATIZATION ACT

NOVEMBER 17 (legislative day, NOVEMBER 16), 1995.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 755]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 755) to amend the Atomic Energy Act of 1954 to provide for the privatization of the United States Enrichment Corporation, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SEC. 1. SHORT TITLE.

This Act may be cited as the "USEC Privatization Act".

SEC. 2. PURPOSE.

The purpose of this chapter is to transfer the interest of the United States in the United States Enrichment Corporation to the private sector in a manner that provides for the long-term viability of the Corporation, provides for the continuation by the Corporation of the operation of the Department of Energy's gaseous diffusion plants, provides for the protection of the public interest in maintaining a reliable and economical domestic source of uranium mining and enrichment services, and, to the extent not inconsistent with such purposes, secures the maximum proceeds to the United States.

SEC. 3. DEFINITIONS.

For purposes of this title:

(1) The term "AVLIS" means atomic vapor laser isotope separation technology.

(2) The term "Corporation" means the United States Enrichment Corporation and, unless the context otherwise requires, includes the private corporation and any successor thereto following privatization.

(3) The term "gaseous diffusion plants" means the Paducah Gaseous Diffusion Plant at Paducah, Kentucky and the Portsmouth Gaseous Diffusion Plant at Piketon, Ohio.

(4) The term "highly enriched uranium" means uranium enriched to 20 percent or more of the uranium-235 isotope.

(5) The term "low-enriched uranium" means uranium enriched to less than 20 percent of the uranium-235 isotope, including that which is derived from highly enriched uranium.

(6) The term "low-level radioactive waste" has the meaning given such term in section 2(9) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b(9)).

(7) The term "private corporation" means the corporation established under section 5.

(8) The term "privatization" means the transfer of ownership of the Corporation to private investors.

(9) The term "privatization date" means the date on which 100 percent of the ownership of the Corporation has been transferred to private investors.

(10) The term "public offering" means an underwritten offering to the public of the common stock of the private corporation pursuant to section 4.

(11) The "Russian HEU Agreement" means the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993.

(12) The term "Secretary" means the Secretary of Energy.

(13) The "Suspension Agreement" means the Agreement to Suspend the Antidumping Investigation on Uranium from the Russian Federation, as amended.

(14) The term "uranium enrichment" means the separation of uranium of a given isotopic content into 2 components, 1 having a higher percentage of a fissile isotope and 1 having a lower percentage.

SEC. 4. SALE OF THE CORPORATION.

(a) AUTHORIZATION.—The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer ownership of the assets and obligations of the Corporation to the private corporation established under section 5 (which may be consummated through a merger or consolidation effected in accordance with, and having the effects provided under, the laws of the state of incorporation of the private corporation, as if the Corporation were incorporated thereunder).

(b) BOARD DETERMINATION.—The Board, with the approval of the Secretary of the Treasury, shall select the method of transfer and establish terms and conditions for the transfer that will provide the maximum proceeds to the Treasury of the United States and will provide for the long-term viability of the private corporation, the continued operation of the gaseous diffusion plants, and the public interest in maintaining a reliable and economical domestic uranium mining and enrichment industries.

(c) APPLICATION OF SECURITIES LAW.—Any offering or sale of securities by the private corporation shall be subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.) the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), and the provisions of the Constitution and laws of any State, territory, or possession of the United States relating to transaction in securities.

(d) PROCEEDS.—Proceeds from the sale of the United States' interest in the Corporation shall be—

(1) deposited in the general fund of the Treasury;

(2) included in the budget baseline required by the Balanced Budget and Emergency Deficit Control Act of 1985; and

(3) counted as an offset to direct spending for purposes of section 252 of such Act, notwithstanding section 257(e) of such Act.

(e) EXPENSES.—Expenses of privatization shall be paid from Corporation revenue accounts in the United States Treasury.

SEC. 5. ESTABLISHMENT OF PRIVATE CORPORATION.

(a) INCORPORATION.—(1) The directors of the Corporation shall establish a private for-profit corporation under the laws of a state for the purpose of receiving the assets and obligations of the Corporation at privatization and continuing the business operations of the Corporation following privatization.

(2) The directors of the Corporation may serve as incorporators of the private corporation and shall take all steps necessary to establish the private corporation, including the filing articles of incorporation consistent with the provisions of this Act.

(3) Employees and officers of the Corporation (including members of the Board of Directors) acting in accordance with this section on behalf of the private corporation shall be deemed to be acting in their official capacities as employees or officers of the Corporation for purposes of 18 U.S.C. 205.

(b) STATUS OF THE PRIVATE CORPORATION.—(1) The private corporation shall not be an agency, instrumentality, or establishment of the United States, a Government corporation, or a Government-controlled corporation.

(2) Except as otherwise provided by this Act, financial obligations of the private corporation shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

(3) No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on actions of the private corporation.

(c) APPLICATION OF POST-GOVERNMENT EMPLOYMENT RESTRICTIONS.—Beginning on the privatization date, the restrictions of 18 U.S.C. 207(a), (b), (c), and (d) shall not apply to the acts of an individual done in carrying out official duties as a director, officer, or employee of the private corporation, if the individual was an officer or employee of the Corporation (including a director) continuously during the 45 days prior to the privatization date.

(d) DISSOLUTION.—In the event that the privatization does not occur, the Corporation will provide for the dissolution of the private corporation within 1 year of the private corporation's incorporation unless the Secretary of the Treasury or his delegate, upon the Corporation's request, agrees to delay any such dissolution for an additional year.

SEC. 6. TRANSFERS TO THE PRIVATE CORPORATION.

Concurrent with privatization, the Corporation shall transfer to the private corporation—

(1) the lease of the gaseous diffusion plants in accordance with section 7,

(2) all personal property and inventories of the Corporation,

(3) all contracts, agreements, and leases under section 8(a),

(4) the Corporation's right to purchase power from the Secretary under section 8(b),

(5) such funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution as approved by the Secretary of the Treasury, and

(6) all of the Corporation's records, including all of the papers and other documentary materials, regardless of physical form or characteristics, made or received by the Corporation.

SEC. 7. LEASING OF GASEOUS DIFFUSION FACILITIES.

(a) TRANSFER OF LEASE.—Concurrent with privatization, the Corporation shall transfer to the private corporation the lease of the gaseous diffusion plants and related property for the remainder of the term of such lease in accordance with the terms of such lease.

(b) RENEWAL.—The private corporation shall have the exclusive option to lease the gaseous diffusion plants and related property for additional periods following the expiration of the initial term of the lease.

(c) EXCLUSION OF FACILITIES FOR PRODUCTION OF HIGHLY ENRICHED URANIUM.—The Secretary shall not lease to the private corporation any facilities necessary for the production of highly enriched uranium but may, subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), grant the Corporation access to such facilities for purposes other than the production of highly enriched uranium.

(d) DOE RESPONSIBILITY FOR PREEXISTING CONDITIONS.—The payment of any costs of decontamination and decommissioning, response actions, or corrective actions with respect to conditions existing before July 1, 1993 at the gaseous diffusion plants shall remain the sole responsibility of the Secretary.

(e) ENVIRONMENTAL AUDIT.—For purposes of subsection (d), the conditions existing before July 1, 1993 at the gaseous diffusion plants shall be determined from the environmental audit conducted pursuant to section 1403(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c–2(e)).

(f) TREATMENT UNDER PRICE-ANDERSON PROVISIONS.—Any lease executed between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, under this section shall be deemed to be a contract for purposes of section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)).

(g) WAIVER OF EIS REQUIREMENT.—The execution or transfer of the lease between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, shall not be considered a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

SEC. 8. TRANSFER OF CONTRACTS.

(a) TRANSFER OF CONTRACTS.—Concurrent with privatization, the Corporation shall transfer to the private corporation all contracts, agreements, and leases, including all uranium enrichment contracts, that were—

(1) transferred by the Secretary to the Corporation pursuant to section 1401(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c(b)), or

(2) entered into by the Corporation before the privatization date.

(b) NONTRANSFERABLE POWER CONTRACTS.—The Corporation shall transfer to the private corporation the right to purchase power from the Secretary under the power purchase contracts for the gaseous diffusion plants executed by the Secretary before July 1, 1993. The Secretary shall continue to receive power for the gaseous diffusion plants under such contracts and shall continue to resell such power to the private corporation at cost during the term of such contracts.

(c) EFFECT OF TRANSFER.—(1) Notwithstanding subsection (a), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred under subsection (a) for the performance of its obligations under such contracts, agreements, or leases during their terms. Performance of such obligations by the private corporation shall be considered performance by the United States.

(2) If a contract, agreement, or lease transferred under subsection (a) is terminated, extended, or materially amended after the privatization date—

(A) the private corporation shall be responsible for any obligation arising under such contract, agreement, or lease after any extension or material amendment, and

(B) the United States shall be responsible for any obligation arising under the contract, agreement, or lease before the termination, extension, or material amendment.

(3) The private corporation shall reimburse the United States for any amount paid by the United States under a settlement agreement entered into with the consent of the private corporation or under a judgment, if the settlement or judgment—

(A) arises out of an obligation under a contract, agreement, or lease transferred under subsection (a), and

(B) arises out of actions of the private corporation between the privatization date and the date of a termination, extension, or material amendment of such contract, agreement, or lease.

(d) PRICING.—The Corporation may establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profitmaking corporation.

SEC. 9. LIABILITIES.

(a) LIABILITY OF THE UNITED STATES.—(1) Except as otherwise provided in this Act, all liabilities arising out of the operation of the uranium enrichment enterprise before July 1, 1993 shall remain the direct liabilities of the Secretary.

(2) Except as provided in subsection (a)(3) or otherwise provided in a memorandum of agreement entered into by the Corporation and the Office of Management and Budget prior to the privatization date, all liabilities arising out of the operation of the Corporation between July 1, 1993 and the privatization date shall remain the direct liabilities of the United States.

(3) All liabilities arising out of the disposal of depleted uranium generated by the Corporation between July 1, 1993 and the privatization date shall become the direct liabilities of the Secretary.

(4) Any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising out of, or resulting from, the privatization of the Corporation is hereby withdrawn.

(5) To the extent that any claim against the United States under this section is of the type otherwise required by federal statute or regulation to be presented to a federal agency or official for adjudication or review, such claim shall be presented to the Department of Energy in accordance with procedures to be established by the Secretary. Nothing in this paragraph shall be construed to impose on the Department of Energy liability to pay any claim presented pursuant to this paragraph.

(6) The Attorney General shall represent the United States in any action seeking to impose liability under this subsection.

(b) LIABILITY OF THE CORPORATION.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered in breach, default, or violation of any agreement because of the transfer of such agreement to the private corporation under section 8 or any other action the Corporation is required to take under this Act.

(c) LIABILITY OF THE PRIVATE CORPORATION.—Except as provided in this Act, the private corporation shall be liable for any liabilities arising out of its operations after the privatization date.

(d) LIABILITY OF OFFICERS AND DIRECTORS.—(1) No officer, director, employee, or agent of the Corporation shall be liable in any civil proceeding to any party in connection with any action taken in connection with the privatization if, with respect to the subject matter of the action, suit, or proceeding, such person was acting within the scope of his employment.

(2) This subsection shall not apply to claims arising under the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a. et seq.), or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities.

SEC. 10. EMPLOYEE PROTECTIONS.

(a) CONTRACTOR EMPLOYEES.—(1) Privatization shall not diminish the accrued, vested pension benefits of employees of the Corporation's operating contractor at the two gaseous diffusion plants.

(2) In the event that the private corporation terminates or changes the contractor at either or both of the gaseous diffusion plants, the plan sponsor or other appropriate fiduciary of the pension plan covering employees of the prior operating contractor shall arrange for the transfer of all plan assets and liabilities relating to accrued pension benefits of such plan's participants and beneficiaries from such plant to a pension plan sponsored by the new contractor or the private corporation or a joint labor-management plan, as the case may be.

(3) In addition to any obligations arising under the National Labor Relations Act (29 U.S.C. 151 et seq.), any employer (including the private corporation if it operates a gaseous diffusion plant without a contractor or any contractor of the private corporation) at a gaseous diffusion plant shall—

(A) abide by the terms of any unexpired collective bargaining agreement covering employees in bargaining units at the plant and in effect on the privatization date until the stated expiration or termination date of the agreement; or

(B) in the event a collective bargaining agreement is not in effect upon the privatization date, have the same bargaining obligations under section 8(d) of the National labor Relations Act (29 U.S.C. 158(d)) as it had immediately before the privatization date.

(4) If the private corporation replaces its operating contractor at a gaseous diffusion plant, the new employer (including the new contractor or the private corporation if it operates a gaseous diffusion plant without a contractor) shall—

(A) offer employment to non-management employees of the predecessor contractor to the extent that their jobs still exist or they are qualified for new jobs, and

(B) abide by the terms of the predecessor contractor's collective bargaining agreement until the agreement expires or a new agreement is signed.

(5) In the event of a plant closing or mass layoff (as such terms are defined in section 2101(a)(2) and (3) of title 29, United States Code) at either of the gaseous diffusion plants, the Secretary of Energy shall treat any adversely affected employee of an operating contractor at either plant who was an employee at such plant on July 1, 1993 as a Department of Energy employee for purposes of sections 3161 and 3162 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h–7274i).

(6)(A) The Secretary and the private corporation shall cause the post-retirement health benefits plan provider (or its successor) to continue to provide benefits for persons employed by an operating contractor at either of the gaseous diffusion plants in an economically efficient manner and at substantially the same level of coverage as eligible retirees are entitled to receive on the privatization date.

(B) Persons eligible for coverage under subparagraph (A) shall be limited to:

(i) Persons who retired from active employment at one of the gaseous diffusion plants on or before the privatization date as vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993 by the Department of Energy to operate a gaseous diffusion plant; and

(ii) Persons who are employed by the Corporation's operating contractor on or before the privatization date and are vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993 by the Department of Energy to operate a gaseous diffusion plant.

(C) The Secretary shall fund the entire cost of post-retirement health benefits for persons who retired from employment with an operating contractor prior to July 1, 1993.

(D) The Secretary and the Corporation shall fund the cost of post-retirement health benefits for persons who retire from employment with an operating contractor on or after July 1, 1993 in proportion to the retired person's years and months of service at a gaseous diffusion plant under their respective management.

(7)(A) Any suit under this subsection alleging a violation of an agreement between an employer and a labor organization shall be brought in accordance with section 301 of the Labor Management Relations Act (29 U.S.C. 185).

(B) Any charge under this subsection alleging an unfair labor practice violative of section 8 of the National Labor Relations Act (29 U.S.C. 158) shall be pursued in accordance with section 10 of the National Labor Relations Act (29 U.S.C. 160).

(C) Any suit alleging a violation of any provision of this subsection, to the extent it does not allege a violation of the National Labor Relations Act may be brought in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy or the citizenship of the parties.

(b) FORMER FEDERAL EMPLOYEES.—(1)(A) An employee of the Corporation that was subject to either the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS) on the day immediately preceding the privatization date shall elect—

(i) to retain their coverage under either CSRS or FERS, as applicable, in lieu of coverage by the Corporation's retirement system, or

(ii) to receive a deferred annuity or lump-sum benefit payable to a terminated employee under CSRS or FERS, as applicable.

(B) An employee that makes the election under subparagraph (A)(ii) shall have the option to transfer the balance in their Thrift Saving Plan account to a defined contribution plan under the Corporation's retirement system, consistent with applicable law and the terms of the Corporation's defined contribution plan.

(2) The Corporation shall pay to the Civil Service Retirement and Disability Fund—

(A) such employee deductions and agency contributions as are required by sections 8334, 8422, and 8423 of title 5, United States Code, for those employees who elect to retain their coverage under either CSRS or FERS pursuant to paragraph (1);

(B) such additional agency contributions as are determined necessary by the Office of Personnel Management to pay, in combination with the sums under subparagraph (A), the "normal cost" (determined using dynamic assumptions) or retirement benefits for those employees who elect to retain their coverage under CSRS pursuant to paragraph (1), with the concept of "normal cost" being used consistent with generally accepted actuarial standards and principles; and

(C) such additional amounts, not to exceed two percent of the amounts under subparagraphs (A) and (B), as are determined necessary by the Office of Personnel Management to pay the cost of administering retirement benefits for employees who retire from the Corporation after the privatization date under either CSRS or FERS, for their survivors, and for survivors of employees of the Corporation who die after the privatization date (which amounts shall be available to the Office of Personnel Management as provided in section 8348(a)(1)(B) of title 5, United States Code).

(3) The Corporation shall pay to the Thrift Savings Fund such employee and agency contributions as are required by section 8432 of title 5, United States Code, for those employees who elect to retain their coverage under FERS pursuant to paragraph (1).

(4) Any employee of the Corporation who was subject to the Federal Employee Health Benefits Program (FEHBP) on the day immediately preceding the privatization date and who elects to retain coverage under either CSRS or FERS pursuant to paragraph (1) shall have the option to receive health benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(5) The Corporation shall pay to the Employees Health Benefits Fund—

(A) such employee deductions and agency contributions as are required by section 8906(a)–(f) of title 5, United States Code, for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4); and

(B) such amounts as are determined necessary by the Office of Personnel Management under paragraph (6) to reimburse the Office of Personnel Management for contributions under section 8906(g)(1) of title 5, United States Code, of those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4).

(6) The amounts required under paragraph (5)(B) shall pay the Government contributions for retired employees who retire from the Corporation after the privatization date under either CSRS or FERS, for survivors of such retired employees, and for survivors of employees of the Corporation who die after the privatization date, with said amounts prorated to reflect only that portion of the total service of such employees and retired persons that was performed for the Corporation after the privatization date.

SEC. 11. OWNERSHIP LIMITATIONS.

No director, officer, or employee of the Corporation may acquire any securities, or any rights to acquire any securities of the private corporation on terms more favorable than those offered to the general public—

(1) in a public offering designed to transfer ownership of the Corporation to private investors,

(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

(3) before the election of the directors of the private corporation.

SEC. 12. URANIUM TRANSFERS AND SALES.

(a) TRANSFERS AND SALES BY THE SECRETARY.—The Secretary shall not provide enrichment services or transfer or sell any uranium (including natural uranium concentrates, natural uranium hexafluoride, or enriched uranium in any form) to any person except as consistent with this section.

(b) RUSSIAN HEU.—(1) On or before December 31, 1996, the United States Executive Agent under the Russian HEU Agreement shall transfer to the Secretary without charge title to an amount of uranium hexafluoride equivalent to the natural uranium component of low-enriched uranium derived from at least 18 metric tons of highly enriched uranium purchased from the Russian Executive Agent under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Secretary shall be based on a tails assay of 0.30 U^{235}. Uranium hexafluoride transferred to the Secretary pursuant to this paragraph shall be deemed under United States law, for all purposes to be of Russian origin.

(2) Within 7 years of the date of enactment of this Act, the Secretary shall sell, and receive payment for, the uranium hexafluoride transferred to the Secretary pursuant to paragraph (1). Such uranium hexafluoride shall be sold—

(A) at any time for use in the United States for the purpose of overfeeding;

(B) at any time for end use outside the United States; or,

(C) in calendar year 2001 for consumption by end users in the United States not prior to January 1, 2002, in volumes not to exceed 3,000,000 pounds U_3O_8 equivalent per year.

(3) With respect to all enriched uranium delivered to the United States Executive Agent under the Russian HEU Agreement on or after January 1, 1997, the United States Executive Agent shall, upon request of the Russian Executive Agent, enter into an agreement to deliver concurrently to the Russian Executive Agent an amount of uranium hexafluoride equivalent to the natural uranium component of such uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Russian Executive Agent shall be based on a tails assay of 0.30 U^{235}. Title to uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall transfer to the Russian Executive Agent upon delivery of such material to the Russian Executive Agent, with such delivery to take place at a North American facility designated by the Russian Executive Agent. Uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin. Such uranium hexafluoride may be sold to any person or entity for delivery and use in the United States only as permitted in subsections (b)(5), (b)(6) and (b)(7) of this section.

(4) In the event that the Russian Executive Agent does not exercise its right to enter into an agreement to take delivery of the natural uranium component of any low-enriched uranium, as contemplated in paragraph (3), within 90 days of the date such low-enriched uranium is delivered to the United States Executive Agent, then the United States Executive Agent shall engage an independent entity through a competitive selection process to auction an amount of uranium hexafluoride or U_3O_8 (in the event that the conversion component of such hexafluoride has previously been sold) equivalent to the natural uranium component of such low-enriched uranium. Such independent entity shall sell such uranium hexafluoride in one or more lots to any person or entity to maximize the proceeds from such sales, for disposition consistent with the limitations set forth in this subsection. The independent entity

shall pay to the Russian Executive Agent the proceeds of any such auction less all reasonable transaction and other administrative costs. The quantity of such uranium hexafluoride auctioned shall be based on a tails assay of 0.30 U^{235}. Title to uranium hexafluoride auctioned pursuant to this paragraph shall transfer to the buyer of such material upon delivery of such material to the buyer. Uranium hexafluoride auctioned pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.

(5) Except as provided in paragraphs (6) and (7), uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4), may not be delivered for consumption by end users in the United States either directly or indirectly prior to January 1, 1998 and thereafter only in accordance with the following schedule:

ANNUAL MAXIMUM DELIVERIES TO END USERS

[Millions lbs. U_3O_8 equivalent]

Year:	
1998	2
1999	4
2000	6
2001	8
2002	10
2003	12
2004	14
2005	16
2006	17
2007	18
2008	19
2009 and each year thereafter	20

(6) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time as Russian-origin natural uranium in a matched sale pursuant to the Suspension Agreement, and in such case shall not be counted against the annual maximum deliveries set forth in paragraph (5).

(7) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time for use in the United States for the purpose of overfeeding in the operations of enrichment facilities.

(8) Nothing in this subsection (b) shall restrict the sale of the conversion component of such uranium hexafluoride. Material sold pursuant to paragraph 5 shall not be swapped, exchanged or loaned.

(9) The Secretary of Commerce shall have responsibility for the administration and enforcement of the limitations set forth in this subsection. The Secretary of Commerce may require any person to provide any certifications, information, or take any action that may be necessary to enforce these limitations. The United States Customs Service shall maintain and provide any information required by the Secretary of Commerce and shall take any action requested by the Secretary of Commerce which is necessary for the administration and enforcement of the uranium delivery limitations set forth in this section.

(10) The President shall monitor the actions of the United States Executive Agent under the Russian HEU Agreement and shall report to the Congress not later than December 31 of each year on the effect the low-enriched uranium delivered under the Russian HEU Agreement is having on the domestic uranium mining, conversion, and enrichment industries, and the operation of the gaseous diffusion plants. Such report shall include a description of actions taken or proposed to be taken by the President to prevent or mitigate any material adverse impact on such industries or any loss of employment at the gaseous diffusion plants as a result of the Russian HEU Agreement.

(c) TRANSFERS TO THE CORPORATION.—

(1) The Secretary shall transfer to the Corporation without charge up to 50 metric tons of enriched uranium and up to 7,000 metric tons of natural uranium from the Department of Energy's stockpile, subject to the restrictions in subsection (c)(2).

(2) The Corporation shall not deliver for commercial end use in the United States—

(A) any of the uranium transferred under this subsection before January 1, 1998;

(B) more than 10 percent of the uranium (by uranium hexafluoride equivalent content) transferred under this subsection or more than 4,000,000 pounds, whichever is less, in any calendar year after 1997; or

(C) more than 800,000 separative work units contained in low-enriched uranium transferred under this subsection in any calendar year.

(d) INVENTORY SALES.—(1) In addition to the transfers authorized under subsections (c) and (e), the Secretary may, from time to time, sell natural and low-enriched uranium (including low-enriched uranium derived from highly enriched uranium) from the Department of Energy's stockpile.

(2) Except as provided in subsections (b), (c), and (e), no sale or transfer of natural or low-enriched uranium shall be made unless—

(A) the President determines that the material is not necessary to national security needs,

(B) the Secretary determines that the sale of material will not have material adverse impact on the domestic uranium mining, conversion, or enrichment industry, taking into account the sales of uranium under the Russian HEU Agreement, and the Suspension Agreement, and

(C) the price paid to the Secretary will not be less than the fair market value of the material.

(e) GOVERNMENT TRANSFERS.—Notwithstanding subsection (d)(2), the Secretary may transfer or sell enriched uranium—

(1) to a federal agency if the material is transferred for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications;

(2) to any person for national security purposes, as determined by the Secretary; or

(3) to any state or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.

(f) SAVINGS PROVISION.—Nothing in this Act shall be read to modify the terms of the Russian HEU Agreement.

SEC. 13. LOW-LEVEL WASTE.

(a) RESPONSIBILITY OF DOE.—(1) The Secretary, at the request of the generator, shall accept for disposal low-level radioactive waste, including depleted uranium if it were ultimately determined to be low-level radioactive waste, generated by—

(A) the Corporation as a result of the operations of the gaseous diffusion plants or as a result of the treatment of such wastes at a location other than the gaseous diffusion plants, or

(B) any person licensed by the Nuclear Regulatory Commission to operate a uranium enrichment facility under sections 53, 63, and 193 of the Atomic Energy Act of 1954 (42 U.S.C. 2073, 2093, and 2243).

(2) Except as provided in paragraph (3), the generator shall reimburse the Secretary for the disposal of low-level radioactive waste pursuant to paragraph (1) in an amount equal to the Secretary's costs, including a pro rata share of any capital costs, but in no event more than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for disposal of such waste.

(3) In the event depleted uranium were ultimately determined to be low-level radioactive waste, the generator shall reimburse the Secretary for the disposal of depleted uranium pursuant to paragraph (1) in an amount equal to the Secretary's costs, including a pro rata share of any capital costs.

(b) AGREEMENTS WITH OTHER PERSONS.—The generator may also enter into agreements for the disposal of low-level radioactive waste subject to subsection (a) with any person other than the Secretary that is authorized by applicable laws and regulations to dispose of such wastes.

(c) STATE OR INTERSTATE COMPACTS.—Notwithstanding any other provision of law, no State or interstate compact shall be liable for the treatment, storage, or disposal of any low-level radioactive waste (including mixed waste) attributable to the operation, decontamination, and decommissioning of any uranium enrichment facility.

SEC. 14. AVLIS.

(a) EXCLUSIVE RIGHT TO COMMERCIALIZE.—The Corporation shall have the exclusive commercial right to deploy and use any AVLIS patents, processes, and technical information owned or controlled by the Government, upon completion of a royalty agreement with the Secretary.

(b) TRANSFER OF RELATED PROPERTY TO CORPORATION.—

(1) IN GENERAL.—To the extent requested by the Corporation and subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), the President shall transfer without charge to the Corporation all of the right, title,

or interest in and to property owned by the United States under control or custody of the Secretary that is directly related to and materially useful in the performance of the Corporation's purposes regarding AVLIS and alternative technologies for uranium enrichment, including—

(A) facilities, equipment, and materials for research, development, and demonstration activities; and

(B) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases.

(2) EXCEPTION.—Facilities, real estate, improvements, and equipment related to the gaseous diffusion, and gas centrifuge, uranium enrichment programs of the Secretary shall not transfer under paragraph (1)(B).

(3) EXPIRATION OF TRANSFER AUTHORITY.—The President's authority to transfer property under this subsection shall expire upon the privatization date.

(c) LIABILITY FOR PATENT AND RELATED CLAIMS.—With respect to any right, title, or interest provided to the Corporation under subsection (a) or (b), the Corporation shall have sole liability for any payments made or awards under section 157 b. (3) of the Atomic Energy Act of 1954 (42 U.S.C. 2187(b)(3)), or any settlements or judgments involving claims for alleged patent infringement. Any royalty agreement under subsection (a) of this section shall provide for a reduction of royalty payments to the Secretary to offset any payments, awards, settlements, or judgments under this subsection.

SEC. 15. GASEOUS DIFFUSION TECHNOLOGY.

(a) TRANSFER OF RIGHTS.—The Corporation shall have the exclusive commercial rights for both uranium enrichment and non-uranium enrichment uses of any patents, patent applications, trade secrets, and other technical information related to the gaseous diffusion technology owned or controlled by the Department of Energy, or by the United States but under control or custody of the Department of Energy. The Corporation shall enter into an exclusive licensing agreement with the Department of Energy providing for—

(1) the payment of royalties of 3% of the gross, pre-tax revenues realized by the Corporation from its non-uranium enrichment commercial uses of such patents, patent applications, trade secrets, and other technical information,

(2) the reduction of such royalties to offset any payments, awards, settlements, or judgments rendered against the Corporation in its deployment or licensing of the exclusive commercial rights under this section, and

(3) the reservation of a non-exclusive, royalty-free right to the United States Government to use such patents, patent applications, trade secrets, and other technical information solely for Governmental purposes.

(b) IMPROVEMENTS.—New patents, trade secrets, and other technical information developed for commercial applications that derive from the gaseous diffusion technology initially licensed by the Corporation shall be at the Corporations' expense and shall be free from royalties to the Department of Energy.

SEC. 16. APPLICATION OF CERTAIN LAWS.

(a) OSHA.—(1) As of the privatization date, the private corporation shall be subject to and comply with the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(2) The Nuclear Regulatory Commission and the Occupational Safety and Health Admiration shall, within 90 days after the date of enactment of this Act, enter into a memorandum of agreement to govern the exercise of their authority over occupational safety and health hazards at the gaseous diffusion plants, including inspection, investigation, enforcement, and rulemaking relating to such hazards.

(b) ANTITRUST LAWS.—For purposes of the antitrust laws, the performance by the private corporation of a "matched import" contract under the Suspension Agreement shall be considered to have occurred prior to the privatization date, if at the time of privatization, such contract had been agreed to by all parties in all material terms and confirmed by the Secretary of Commerce under the Suspension Agreement.

(c) ENERGY REORGANIZATION ACT REQUIREMENTS.—(1) The private corporation and its contractor shall be subject to the provisions of section 211 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) to the same extent as an employer subject to such section.

(2) With respect to the operation of the facilities leased by the private corporation, section 206 of the Energy Reorganization Act of 1974 (42 U.S.C. 5846) shall apply to the directors and officers of the private corporation.

SEC. 17. AMENDMENTS TO THE ATOMIC ENERGY ACT.

(a) REPEAL.—(1) Chapters 22 through 26 of the Atomic Energy Act of 1954 (42 U.S.C. 2297–2297e–7) are repealed as of the privatization date.

(2) The table of contents of such Act is amended as of the privatization date by striking the items referring to sections repealed by paragraph (1).

(b) NRC LICENSING.—

(1) Section 11v. of the Atomic Energy Act of 1954 (42 U.S.C. 2014v.) is amended by striking "or the construction and operation of a uranium enrichment facility using Atomic Vapor Laser Isotope Separation technology".

(2) Section 193 of the Atomic Energy Act of 1954 (42 U.S.C. 2243) is amended by adding at the end the following:

"(f) LIMITATION.—No license or certificate of compliance may be issued to the United States Enrichment Corporation or its successor under this section or sections 53, 63, or 1701, if in the opinion of the Commission, the issuance of such a license or certificate of compliance—

(i) would be inimical to the common defense and security of the United States; or

(ii) would be inimical to the maintenance of a reliable and economical domestic source of enrichment services because of the nature and extent of the ownership, control, or domination of the Corporation by a foreign corporation or a foreign government or any other relevant factors or circumstances.".

(3) Section 1701(c)(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f(c)(2)) is amended to read as follows:

"(2) PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Commission, but not less than every 5 years. The Commission shall review any such application and any determination made under subsection (b)(2) shall be based on the results of any such review."

(4) Section 1702(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f–1(a)) is amended—

(1) by striking "other than" and inserting "including", and

(2) by striking "sections 53 and 63" and inserting "sections 53, 63, and 193".

(c) JUDICIAL REVIEW OF NRC ACTIONS.—Section 189b. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(b)) is amended as follows:

"b. The following Commission actions shall be subject to judicial review in the manner prescribed in chapter 158 of title 28, United States Code and chapter 7 of title 5, United States Code:

"(1) Any final order entered in any proceeding of the kind specified in subsection (a).

"(2) Any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license.

"(3) Any final order establishing by regulation standards to govern the Department of Energy's gaseous diffusion uranium enrichment plants, including any such facilities leased to a corporation established under the USEC Privatization Act.

"(4) Any final determination relating to whether the gaseous diffusion plants, including any such facilities leased to a corporation established under the USEC Privatization Act, are in compliance with the Commission's standards governing the gaseous plants and all applicable laws.".

(d) CIVIL PENALTIES.—Section 234 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2282(a)) is amended by—

(1) striking "any licensing provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109" and inserting: "any licensing or certification provision of section 53, 57, 62, 63, 81, 82, 101, 103, 194, 107, 109, or 1701"; and

(2) by striking "any license issued thereunder" and inserting: "any license or certification issued thereunder".

(e) REFERENCES TO THE CORPORATION.—Following the privatization date, all references in the Atomic Energy Act of 1954 to the United States Enrichment Corporation shall be deemed to be references to the private corporation.

SEC. 18. AMENDMENTS TO OTHER LAWS.

(a) DEFINITION OF GOVERNMENT CORPORATION.—As of the privatization date, section 9101(3) of title 31 United States Code, is amended by striking subparagraph (N) as added by section 902(b) of Public Law 102–486.

(b) DEFINITION OF THE CORPORATION.—Section 1018 of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(1)) is amended by inserting "or its successor" before the period.

PURPOSE OF THE MEASURE

The purpose of S. 755, as reported by the Committee, is to transfer the interest of the United States in the United States Enrichment Corporation to the private sector in a manner that secures the maximum proceeds to the United States while:

Providing for the long-term viability of the Corporation;

providing for the continuation by the Corporation of the operation of the Department of Energy's gaseous diffusion plants; and

providing for the protection of the public interest in maintaining a reliable and economical domestic source of uranium mining and enrichment services.

BACKGROUND AND NEED

Uranium enrichment is a key step in the production of nuclear fuel for modern commercial power reactors. Natural uranium contains 99.3% of the isotope U^{238} and 0.7% of the isotope U^{235}. The uranium fuel that powers modern light water reactors must be enriched to contain 3–5% of the more fissile ^{235}U in order to sustain a nuclear reaction.

From its beginning during World War II until 1993, uranium enrichment in the United States for both defense and commercial power purposes has been controlled by the Department of Energy (DOE) or its predecessor agencies. As recently as the 1970's, the United States monopolized free world uranium enrichment services. Throughout the 1970's and 80's, however, the U.S. enrichment enterprise lost market share to foreign competitors as a result of its own poorly timed marketing initiatives, conflicting policy directives imposed from above, and requirements placed upon it as a consequence of its status as a government entity. For example, DOE was required to publish commercially sensitive pricing and similar information in the Federal Register that would have been regarded by a private entity as commercially valuable, proprietary information.

By the late 1980's, members of the Senate Energy and Natural Resources Committee, alarmed that the U.S. enrichment enterprise's market share had declined from a virtual monopoly to less than half of the global market, began to explore methods to privatize the U.S. uranium enrichment enterprise in order that it might compete more effectively in the marketplace. In 1988, the Senate first approved legislation directing the Department of Energy to spin off its uranium enrichment enterprise into a wholly owned government corporation as a transitory step to complete privatization. Only with the passage of the Energy Policy Act (EPAct) of 1992, however, did the direction to form a government corporation become law.

On July 1, 1993, pursuant to the provisions of EPAct, the Department of Energy transferred its uranium enrichment operations into a wholly owned government corporation called the United States Enrichment Corporation (USEC). USEC, with approximately

130 employees, manages gaseous diffusion enrichment plants located in Paducah, Kentucky and Portsmouth, Ohio under lease from DOE. Day-to-day operations at the plants are managed under contract by Lockheed Martin Utility Services, employing 4,400 personnel. With 90% of the U.S. enrichment market and 40% of the world market, USEC's annual revenues approach $1.5 billion—a figure that would rank it 286th on the Fortune 500 if it were privately owned. Dividends of $30 million in 1993 and $55 million in 1994 have been paid to USEC's sole shareholder—the U.S. Treasury.

In testimony before the Committee, witnesses from the administration, including USEC, and J.P. Morgan Securities, Inc., expressed their view that the Corporation could not be successfully privatized in the absence of legislation designed to clarify a number of issues:

Liability.—Legislation is needed to clearly identify the liabilities that will rest with the private corporation and those that will remain with the U.S. Government. The identification of liabilities is critical to investor confidence and the achievement of maximum proceeds for the sale.

Transfer of existing contracts and other assets.—To ensure USEC's fair valuation in the marketplace, clear legislative affirmation that the United States will continue to stand behind existing, long term enrichment services contracts is needed. The long term enrichment service contracts are USEC's most valuable assets, and investors require assurance that performance by the Corporation under the contracts is guaranteed by the United States until they are modified, terminated or extended by the private parties. Similarly, other USEC assets and obligations, including the right to purchase electrical power under existing power supply contracts and the right to continue to lease the gaseous diffusion enrichment plants currently under lease by USEC from DOE, must be addressed in legislation to assure full valuation.

Maintenance of important national security agreements.—As a means to encourage the removal of missiles from Ukraine, the dismantling of their Russian nuclear warheads and the disposal of surplus Russian highly enriched uranium (HEU), the United States and Russia signed a bilateral agreement in 1993 to provide for the U.S. purchase of Russian HEU from the warheads. Under the terms of a subsequent purchase contract between MinAtom (the Russian Atomic Energy Ministry) and USEC (acting as the current Executive Agent for the U.S.), the Russians will "blend down" 500 metric tons of HEU into low enriched uranium (LEU) meeting commercial standards. Under the terms of the bilateral agreement, USEC and its possible successors as the U.S. executive agent will pay up to $12 billion over 20 years for the LEU derived from weapons HEU. The current contract between USEC and MinAtom proposes to pay the Russians for both the natural uranium content of the LEU and the "Separative Work Unit(s)" or SWU. Of the $12 billion estimated potential value of the contract, an estimated $8 billion is for SWU and an estimated $4 billion is for the natural uranium content. Under the terms of the current contract,

the value of the SWU is paid at time of delivery, the value of the natural uranium content is not paid for until it is resold, used by USEC as "overfeed" in its enrichment operations, or when the contract is completed. Unfortunately for the Russians, there is no obvious market for the Russian natural "feed" material under current market conditions and trade restrictions. The Far East and European markets are today essentially closed to Russian materials, and the U.S. market is restricted under an antidumping suspension agreement administered by the U.S. Commerce Department. Thus, it is unlikely that the Russians would receive significant payments against $4 billion of the agreement's estimated value prior to 2015 under current contract arrangements. The Russians have expressed frustration over this aspect of the contract, and there are fears that they may withdraw from the agreement. To help ensure the implementation of the HEU agreement, the administration has considered proposing that USEC be allowed to sell the natural uranium in the United States and to waive duties if the antidumping suspension agreement were canceled in order to continue purchases under the Russian HEU agreement. However, the unrestricted entry into the market of new, low cost feed materials could significantly disrupt uranium markets and depress market prices. Thus, there is a need for legislation to "solve" the problem outlined above by (1) striking a balance between the maintenance of the agreement and protection against market disruptions in the uranium production, conversion and enrichment industries; and (2) addressing concerns that USEC's privatization may erect obstacles to the success of the Russian HEU agreement. S. 755, as amended, addresses these concerns by creating mechanisms that allow the Russians to receive full payment for the feed material from the current contract through 1996, with feed material from subsequent years either being returned to the Russians or independently auctioned with the proceeds, less costs, going to the Russians. The Russian feed material could be freely sold abroad or sold for domestic end use subject to annual maximum amounts specified in the bill.

Other issues, while not deemed essential to privatization, were considered by most witnesses appearing before the Committee as desirable features in the legislation:

Uranium Transfers.—As a means of enhancing the value of USEC in the marketplace and reducing DOE's costs of safeguarding surplus HEU, the administration sought legislative direction for the transfer of specified amounts of surplus enriched uranium and uranium hexafluoride feed material.

Clarification of the DOE's ability to sell excess uranium inventories.—The Energy Policy Act of 1992 designated USEC as the Department of Energy's exclusive marketing agent—an arrangement that would be clearly undesirable once USEC was fully privatized. Therefore, legislation authorizing the Department of Energy to market its surplus enriched uranium, with or without the use of a marketing agent, was considered necessary and desirable.

Clarification of the fate of low level radioactive waste from enrichment activities.—Because the interstate low-level radioactive waste compacts of which Kentucky and Ohio are a part never envisioned accommodating low level radioactive waste from the DOE gaseous diffusion enrichment plants, some witnesses expressed the need to clarify in legislation the eventual fate of such waste, including uranium hexafluoride "tails" should they ever be declared waste. Moreover, there was concern that investors might discount USEC's value in the absence of clear legislative language marketing provisions for low-level waste disposal.

In testimony before the Committee, the Oil, Chemical and Atomic Workers (OCAW) Union sought the legislative resolution of issues related to the protection of worker pension plans, existing collective bargaining agreements, the establishment of employment protections, hiring preference for environmental restoration activities, and guarantees of future post-retirement health benefits. S. 755, as amended, addresses these issues in section 10.

Finally, a variety of other issues were widely seen as requiring legislative clarification. These issues ranged from the mechanics of the transfer of assets and obligations from the government corporation to the private corporation to the specification of one-step licensing of Atomic Vapor Isotope Separation (AVLIS) technology. S. 755, as reported by the Committee, clarifies these issues and directs that USEC shall be privatized under terms and conditions established by the Board of Directors with the approval of the Secretary of Treasury. The actual privatization will occur when the government corporation stock now held by the U.S. Department of Treasury is transferred to private ownership through an initial public offering of public stock, a negotiated sale, or a combination of the two.

The President's fiscal year 1996 budget estimates net proceeds of $1.5 billion to the U.S. Treasury from the sale of USEC. J.P. Morgan estimates of sale proceeds resulting from an initial public offering range from $1.5–$1.8 billion. In addition to the revenues derived from the sale, USEC's profits will be subjected to Federal income taxes after privatization. Had it been a private business, USEC would have paid approximately $150 million in taxes in 1994.

LEGISLATIVE HISTORY

Senator Domenici, with Senators Ford, Johnston, Campbell, Thomas, and Simpson as original cosponsors, introduced S. 755 on May 3, 1995. The bill was referred to the Committee on Energy and Natural Resources. On June 13, 1995, the full Committee held a hearing on S. 755.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

At a business meeting on September 21, 1995, the Committee ordered S. 755 favorably reported with an amendment in the nature of a substitute by voice vote.

COMMITTEE AMENDMENTS

The Committee adopted an amendment in the nature of a substitute to S. 755. Although the substitute amendment retains the purpose and many of the provisions of S. 755, the substitute employs a modified structure intended to make the legislation easier to read and comprehend. A discussion of the major provisions of S. 755 and changes incorporated in the substitute follows:

AVLIS

Atomic Vapor Laser Isotope Separation (AVLIS) is a promising enrichment technology that may enrich uranium at a lower cost than gaseous diffusion or centrifuge technologies. Sections 2 and 9 of S. 755, would provide for one-step licensing of an AVLIS enrichment facility by the Nuclear Regulatory Commission (NRC), consistent with the licensing of other uranium enrichment facilities. Section 17(b), paragraphs (1) and (4) of the Committee substitute would accomplish the same goal.

EMPLOYEE PROVISIONS

It was the intent of S. 755, in section 4 as introduced, that privatization be neutral with respect to the pension benefits and collective bargaining agreements at the gaseous diffusion plants in Ohio and Kentucky. Section 10(a) of the Committee substitute strengthens and clarifies this intent, and provides standing in U.S. District Court for suits arising from alleged violations of provisions in the section not otherwise provided under existing law. Section 10 of the Committee substitute also adds provisions to protect the jobs of nonmanagement employees in the event of a change in plant operating contractors, addresses future post-retirement health benefits, and extends hiring preferences afforded under sections 3161 and 3162 of the 1993 National Defense Authorization Act.

Section 10(b) of the Committee substitute and S. 755, in section 4 as introduced, contain identical language addressing the health and pension benefits of employees of the Corporation who transferred from other Federal employment.

URANIUM MARKETING AUTHORITY

Both S. 755 and the Committee substitute would delete the exclusive authority of USEC to market enriched uranium on behalf of the U.S. Government, and both afford the Department of Energy with the ability to market surplus enriched uranium from its stockpile to the extent the President determines the material is not necessary for national security needs. However, S. 755 as introduced provides USEC with a right of first refusal to purchase this material. The Committee substitute did not contain this provision due to concerns that such a right of first refusal would have an adverse effect on the successful, competitive marketing of uranium from the DOE stockpile.

S. 755 as introduced also contains provisions requiring full rulemaking, with opportunities for public comment, and a secretarial determination that the sale of surplus stockpile material would not have an adverse impact on domestic mining or enrichment industries before such sales could occur. While the Committee substitute

also requires a secretarial determination designed to ensure that the sale of surplus stockpile material will not have an adverse impact on domestic mining or enrichment industries, full rulemaking would not be required. This modification was made to ensure that the Secretary will be able to sell surplus material in an efficient manner, although both S. 755 as introduced and the Committee substitute require the payment of fair market value and the satisfaction of other conditions.

TRANSFER OF CONTRACTS

To ensure the valid transfer of USEC's primary assets—the existing long term enrichment contracts—to the private corporation, both S. 755 as introduced and the Committee substitute maintain full faith backing by the U.S. Government for the existing enrichment contracts transferred from DOE to USEC until those contracts are modified or terminated. However, both the bill as introduced and the Committee substitute require USEC to reimburse the United States for any judgments it is forced to pay under this provision arising from actions of the private corporation after the privatization date.

LOW-LEVEL WASTE

S. 755 as introduced contains language in section 5 providing that any NRC licensed uranium enricher in the United States may send low-level waste to DOE, paying DOE's cost of disposal (not to exceed prevailing commercial rates). Currently, USEC is the only such domestic enricher, but the extension of this benefit to other potential future domestic enrichers is meant to ensure that a privatized USEC will not enjoy an unfair advantage over a future domestic competitor. Moreover, the low-level radioactive waste repositories planned to serve Ohio and Kentucky never anticipated accepting wastes from the DOE/USEC enrichment plants, so this provision was included to ensure that there would be an eventual repository for the low-level wastes generated from the operation, decontamination, and decommissioning of the plants.

Testimony received from the low-level nuclear waste compact commissions serving Kentucky and Ohio, however, expressed concerns that the language in S. 755 as introduced would not have its intended result, and that the USEC or the private corporation, or any competing domestic enricher could, at their sole discretion, dispose of waste at compact sites. Therefore, the Committee substitute, in section 13, modified the language to clarify that no State or interstate compact shall be liable for the treatment, storage, or disposal of any low-level radioactive waste (including mixed waste) attributable to the operation, decontamination, and decommissioning of any uranium enrichment facility.

DOE TRANSFERS OF URANIUM PRIOR TO PRIVATIZATION

Section 12(c) of the Committee substitute and S. 755, in section 5(d) as introduced, would each allow the Department of Energy to transfer to USEC, without charge, up to 7,000 metric tons of natural uranium and 50 metric tons enriched uranium prior to the privatization date. Both the substitute and S. 755 as introduced con-

tain identical limitations on the amount of this material USEC and the private corporation can introduce into the market.

THE RUSSIAN HIGHLY ENRICHED URANIUM AGREEMENT

Both S. 755 as introduced and the Committee substitute contain extensive language intended to address the role of the USEC and the private corporation in the continuation of an important national security initiative begun in the Bush administration and continued in the Clinton administration—the U.S. agreement to purchase highly enriched uranium (HEU) from Russian nuclear warheads. S. 755, as introduced, contained several innovative features, such as forward sales of the Russian uranium ''feed'' component as a means to compensate the Russians for the value of this material earlier than contemplated under existing contractual arrangements, that were further developed and refined in the Committee substitute.

There are, however, several important differences between S. 755 as introduced and the Committee substitute. S. 755, as introduced, provided for the immediate return of the feed material (uranium hexafluoride) component to Russian Federation ownership. This feed material, designated as Russian material, could only be sold for end use in the United States subject to a ''matched sales'' suspension agreement currently in force that arose from a Department of Commerce anti-dumping investigation, or subject to other limitations as provided in the bill. Due to the concern that the low price for the Russian uranium hexafluoride afforded under these limitations could result in the collapse of the Russian HEU Agreement, the Committee substitute contains a number of provisions, described in section 12, to ensure that the Russians will receive full payment for the uranium hexafluoride component through 1996. This will be accomplished by directing USEC to pay the Russians for this material as it is received. USEC will then transfer this material (derived from at least 18 metric tons of highly enriched uranium) to the Department of Energy, which will be free to resell it subject to conditions and limitations specified in the bill. For Russian uranium hexafluoride received after 1996, the Committee substitute contains provisions that allow for forward sales, auctions by independent entities, and other mechanisms to ensure the Russians receive market values for their uranium hexafluoride. Again, the purpose of these departures from the approach envisioned in S. 755, as introduced, is to help encourage continued Russian participation in the HEU Agreement.

S. 755, as introduced, contained a provision mandating that USEC remain the U.S. Executive Agent under the HEU Agreement at least until the date of privatization. The Committee substitute does not contain this provision in order to maintain the administration's flexibility in selecting the Executive Agent of its choosing.

MECHANICS OF PRIVATIZATION

S. 755, in section 7 as introduced, contained provisions related to the mechanics of privatization and the establishment of a private corporation. The Committee substitute, for the most part, merely refines and clarifies these provisions. However, there are some important differences.

For example, S. 755, as introduced, contained language to limit ownership, in the event of a public stock offering, to 10% for a period of three years. The intent of this provision was to protect the privatized corporation from "raiders" more interested in the cash and income value of the corporation than its maintenance as an ongoing uranium enrichment concern. The Committee substitute deleted this provision due to concerns that the limitation might limit the flexibility of the Board and the Department of the Treasury to arrange for privatization through a combination sale combining features of an initial public offering (IPO) and a merger/acquisition. In deleting this provision, the Committee notes that provisions in section (4)b providing the Board and the Secretary of the Treasury with the authority to establish specific terms and conditions for the transfer that may be used to protect the corporation from buyers not interested in operating the private corporation as an ongoing uranium enrichment concern.

GASEOUS DIFFUSION TECHNOLOGY

S. 755, as introduced, contains no language related to the commercial rights of the gaseous diffusion technology used for uranium enrichment. This technology has substantial commercial promise in applications unrelated and unrelated to uranium enrichment, but the Department of Energy has been unable to successfully commercialize the technology.

Since gaseous diffusion technology can be used to enrich uranium, the Committee is mindful of the obvious importance of protecting the technology in keeping with important non-proliferation goals. However, other proliferation-sensitive technologies are in the commercial marketplace today, subject to strict export and end use requirements confident in the ability of the Government to protect this technology under existing law, the Committee included language in section 15 of the Committee substitute providing USEC and the private corporation with the exclusive commercial rights for both uranium enrichment and non-uranium enrichment uses of the gaseous diffusion technology owned or controlled by the Department of Energy, or by the United States but under control or custody of the Department of Energy. The Committee substitute further directs the Corporation to enter into an exclusive licensing agreement with the Department of Energy providing for royalty payments of 3% of the gross revenues realized by the Corporation from its non-uranium enrichment commercial uses of the gaseous diffusion technology.

The inclusion of this language adds value to USEC in the marketplace, provides the opportunity to commercialize a valuable technology, provides royalty repayment to the Treasury—and does so while protecting the underlying technology from prohibited uses.

LIMITATIONS ON FOREIGN OWNERSHIP

S. 755, as introduced, contains a provision providing the Nuclear Regulatory Commission with the authority to deny a license or certificate of compliance if the "issuance of such a license or certificate of compliance to the Corporation would be inimical to the *common defense and security of the United States* due to the nature and extent of the ownership, control or domination of the Corporation by

a foreign corporation or foreign government or any other relevant factors or circumstances" (emphasis added).

The Committee substitute, in section 17(a)(2), includes the "common defense and security" requirement while adding that the NRC may also deny a license or certificate of compliance if doing so would be inimical to the maintenance of a *reliable and economical domestic source of enrichment services* due to the nature and extent of the ownership, control or domination of the Corporation by a foreign corporation or foreign government or any other relevant factors or circumstances. This language was added to guard against the possibility of a foreign uranium enrichment company acquiring the Corporation with the intent of operating it in a manner inconsistent with its maintenance as an ongoing uranium enrichment concern.

SECTION-BY-SECTION ANALYSIS

Section 1—Title

The intent of the section is self explanatory.

Sec. 2—Purpose

The intent of the section is self explanatory.

Sec. 3—Definitions

The intent of the section is self explanatory.

Sec. 4—Sale of the corporation

Subsection (a) provides specific authorization for the Board of Directors, with the approval of the Secretary of the Treasury, to transfer ownership of the Corporation to private investors by first transferring the assets and obligations of the Corporation to the private corporation established under section 5 and then selling the private corporation to investors pursuant to an initial public offering, a negotiated sale or a combination of the two.

Subsection (b) further authorizes the Board of Directors, with the approval of the Secretary of the Treasury, to select the specific method of transfer as well as its terms and conditions, in a manner that provides maximum proceeds to the U.S. Treasury, and provides for the long term viability of the private corporation, the continued operation of the gaseous diffusion plants, and the public interest in maintaining reliable and economic domestic uranium mining and enrichment industries.

The Board of Directors is directed to take action in subsections (a) and (b) with the approval of the Secretary of the Treasury in recognition of the fact that the Secretary of the Treasury currently holds all of the capital stock of the Corporation. The requirement for approval is not intended to, and should not, impair the ability of the Board of Directors to act in a timely manner in response to market and other conditions in connection with privatization. The Board of Directors and the Secretary should move with dispatch and in a market sensitive manner to carry out the privatization.

Subsection (c) directs that the sale of the Corporation be conducted in accordance with existing federal and state securities laws.

Subsection (d) directs that proceeds from the sale of the Corporation shall be deposited in the general fund of the Treasury, included in the budget baseline required by the Balanced Budget and Emergency Deficit Control Act of 1985, and counted as an offset to direct spending.

Subsection (e) specifies that the expenses of privatization shall be paid from the Corporation's revenue accounts in the U.S. Treasury.

Sec. 5—Establishment of the private corporation

Paragraph (1) of subsection (a) directs the Corporation's directors to establish a new, for-profit corporation incorporated under state law to receive USEC's assets and obligations at privatization, and to carry forth its business operations. The establishment of a State incorporated private corporation will facilitate the sale of the Corporation regardless of the method of sale selected.

Paragraph (2) of subsection (a) authorizes the Corporation's directors to serve as incorporators of the new private corporation and to take all necessary steps to establish the private corporation and provide for a smooth transition, including the filing of articles of incorporation and the sale of the Corporation's stock (100% of which is now held by the U.S. Treasury) to private investors through an initial public offering, or through a negotiated sale, or a combination of the two.

The section also ensures compatibility with Federal employee ethics laws. Prior to privatization, the Corporation will be providing necessary services for the private corporation while the two corporations exist contemporaneously. The addition of paragraph (3) of subsection (a) will ensure that employees, officers and directors providing such services are doing so in their official Government capacities, thus avoiding any question about the application of section 205 of title 18 for these limited functions. Also, because the employees, officers and directors of the Corporation could become employees, officers and directors of the private corporation on the privatization date, subsection (c) ensures that the post-government employment restrictions in section 207 of title 18 will not apply to USEC directors, officers or employees. The 45 day requirement for employment is to help ensure that the purpose of the exemption is truly for those who move from the Corporation to the private corporation and not from another agency to the private corporation.

This section does not provide an exemption from the restrictions of subsection (f) of 18 U.S.C. 207, which prohibits for one year former senior employees from representing, aiding or advising a foreign government or political party on a matter in which the entity is seeking to influence a decision by an officer or employee of a U.S. department or agency.

Subsection (b) clarifies the status of the private corporation, specifying that it will not be an agency, instrumentality, or establishment of the United States, a Government Corporation, or a Government-controlled corporation, that financial obligations of the private corporation shall be its alone except as provided elsewhere in the Act and that no action under 28 U.S.C. 1491 will be allowed against the United States based upon the actions of the private corporation.

Finally, subsection (d) directs that in the event USEC has not been privatized within one year of the incorporation of the private corporation the private corporation will be dissolved. If requested by the Corporation, and the Secretary of the Treasury agrees, the dissolution of the private corporation may be delayed one additional year in order to permit privatization to occur.

Sec. 6—Transfers to the private corporation

This section provides for the transfer of the Corporation's property, assets, contracts, agreements, leases, rights to purchase power, funds and records regardless of form, to the new private corporation.

Sec. 7—Leasing of gaseous diffusion facilities

Subsection (a) directs that the lease between the Department of Energy and the Corporation for the gaseous diffusion plants in Kentucky and Ohio will transfer to the new private corporation under the existing terms for the remainder of the current lease period.

Subsection (b) directs that the new corporation will have the exclusive option to renew the lease of the plants and their related property for additional periods following the initial lease term.

Subsections (c) through (g) were originally enacted as part of section 1403 of the Energy Policy Act of 1992 and are restated in this act and take account of the private corporation because such provisions will continue to have effect following the privatization date. However, subsection (g) has been slightly modified to ensure that the transfer of the existing gaseous diffusion plant lease to the private corporation (or its extension or renewal) does not trigger the need for an Environmental Impact Statement, Environmental Assessment or other review under the National Environmental Policy Act of 1969. Subsection (e) was also slightly modified to reflect that the Department of Energy conducted an environmental audit before the July 1, 1993 transition date under the Energy Policy Act of 1992. Under subsection (d), which simply restates the provision originally enacted in the Energy Policy Act of 1992, the Department of Energy remains responsible for conditions that existed before July 1, 1993 which would include those identified in the audit.

Sec. 8—Transfer of contracts

Recognizing that the primary value of USEC is the value of its long term uranium enrichment contracts, this section explicitly specifies that the Corporation will transfer these contracts and other contracts, leases and agreements to the new private corporation:

Paragraph (1) of subsection (a) transfers the existing long-term uranium enrichment contracts, as well as all other contracts, agreements and leases transferred from DOE to the Corporation on July 1, 1993 pursuant to the 1992 legislation creating the Corporation.

Paragraph (2) of subsection (a) transfers the existing long-term uranium enrichment contracts, as well as all other contracts, agreements and leases entered into by the Corporation between July 1, 1993 and the privatization date.

The gaseous diffusion enrichment process uses substantial amounts of electricity, and the ability to enrich uranium at competitive prices depends on stable electricity prices secured under non-transferable, long-term power purchase agreements held by the Department of Energy. As a consequence, subsection (b) transfers the right to purchase power at cost from the Department of Energy throughout the term of those power purchase contracts entered into by the Secretary prior to July 1, 1993. The United States is unable to resell the power under these agreements except for use at the gaseous diffusion plants. The United States will be able to realize the value of these non-transferable power purchase agreements and the substantial capital it has invested in the power plants through continuing to resell the power to the Corporation subsequent to privatization. The United States would thereby realize the value of the power purchase agreements at privatization.

To ensure the continuation of the contracts, leases and agreements outlined above, which is again a key component of the Corporation's valuation, subsection (c) specifies that the United States will remain obligated to the parties of the contracts, leases and agreements for performance during their terms, until they are terminated, extended, or materially amended after the privatization date. However, paragraph (3) of subsection (c) also provides that the private corporation will reimburse the United States for any settlements or judgments arising out of the transferred contracts, leases and agreements as a result of actions taken by the private corporation between the privatization date and the termination, extension, or material amendment of the contract, agreement or lease.

Subsection (d) restates the relevant portions of language related to the pricing of products, materials and services included in the Energy Policy Act of 1992. It provides that the Corporation may establish prices for its products, materials, and services on a basis that will allow it to attain the normal business objectives of a profitmaking corporation. In the case of the contracts originally transferred by the Secretary pursuant to section 1401(b) of the Energy Policy Act of 1992, after privatization the private corporation would continue to price its services to attain the normal business objectives of a profitmaking corporation, provided the prices charged are consistent with the terms of the contracts including any ceiling charge provided in the terms of the transferred contracts. Congress, by including this language, does not intend to affect the outcome of any pending legislation over the pricing of enrichment services.

Sec. 9—Liabilities

This section specifies the liabilities of the United States and those of the private corporation—a prerequisite to the proper market valuation of the Corporation and critical to realizing the maximum sale value for the United States.

Paragraph (1) of subsection (a) restates the provision in the Energy Policy Act of 1992 and provides that the liabilities arising from the operation of the gaseous diffusion plants prior to the July 1, 1993 transition from the Department of Energy to the Corporation shall remain with the U.S. Government.

Paragraph (2) of subsection (a) specifies that all liabilities arising out of the operations of the Corporation between July 1, 1993 and the privatization date shall remain the direct liabilities of the United States, except as provided in subsection (a)(3) or otherwise provided in a memorandum of agreement between the Corporation and the Office of Management and Budget.

Paragraph (3) of subsection (a) states that the liability for disposal of depleted uranium generated from the enrichment process prior to the date of privatization shall remain with the U.S. Government.

Paragraph (4) contains language withdrawing the consent of the United States to be sued for claims arising from the privatization of the Corporation.

Paragraph (5) contains language that provides that, to the extent that claims brought against the United States under this section must first be presented to a federal agency or official for adjudication, the Department of Energy shall be the designated agency.

Paragraph (6) stipulates that the Attorney General shall represent the United States in any action seeking to impose liability under this section.

Subsection (b) clarifies that the Corporation will not be considered in breach, default or violation of agreements due to their transfer to the private corporation, or for any other actions the Corporation is required to take under this Act.

Subsection (c) explicitly states that, except as otherwise provided elsewhere in the Act, the private corporation shall be liable for its actions after the privatization date.

Subsection (d) includes language that protects the officers, directors, employees and agents of the Corporation from liability in civil proceedings provided they are acting within their scope of employment, except for activities related to securities transactions.

Sec. 10—Employee protections

Subsection (a) provides for the protection of employees at the gaseous diffusion plants in Kentucky and Ohio in the following manner:

Pension Plans: Paragraphs (1) and (2) of subsection (a) specify that privatization will not diminish the accrued, vested pension benefits of the plant's operating contractor employees, and that, in the event the private corporation terminates or changes the operating contractor at either or both of the gaseous diffusion plants, the appropriate fiduciary of the pension plan covering contractor employees will arrange for the transfer of the assets (including any surpluses) and liabilities of the pension plan to the extent that they relate to accrued pension benefits of the plan's participants and beneficiaries for the relevant gaseous diffusion plant to the pension plan sponsored by the new contractor, the private corporation (if it operates the plant without an operating contractor), or a joint labor-management plan as appropriate.

Collective Bargaining Agreements: Paragraph (3) of subsection (a) preserves the unexpired collective bargaining agreements in place at the time of privatization until their stated expiration or termination date, specifying that in the event a collective bargaining agreement is not in place at the time of privatization, the employer will have the same obligations to pursue a collective bargaining agreement that it had under section 8(d) of the National Labor Relations Act immediately before the privatization date. The intent of this section is to ensure that privatization does not advantage management or labor in any ongoing deliberations leading to a new collective bargaining agreement. Paragraph 4(B) of subsection (a) also protects unexpired collective bargaining agreements in the event of a change in plant operating contractors, until the agreements expire or new agreements are signed.

Employment protections: Paragraph (4) of subsection (a) directs that in the event of a change in plant operating contractors, the new contractor (or the private corporation in the event that it operates the plant without a contractor), will offer employment to the non-management employees of the predecessor contractor to the extent their jobs still exist, or to the extent that they are qualified for new jobs at the plant.

Hiring preference for environmental restoration activities: Paragraph (5) of subsection (a) directs that in the event of mass layoffs or plant closings, the affected contractor employees who were also employed at the plant on July 1, 1993 shall be eligible for the hiring preferences afforded under sections 3161 and 3162 of the 1993 National Defense Authorization Act.

Future post-retirement health benefits: Paragraph (6) of subsection (a) attempt to ensure that employees working for the operating contractor of the private corporation at the gaseous diffusion plants in Kentucky and Ohio will be provided post retirement health benefits at substantially the same level of coverage as that to which retirees, meeting comparable eligibility requirements under the operating contractor's post retirement health benefit plan, will be entitled under the plan on the privatization date. Because this paragraph is intended to provide benefits at substantially the same level of coverage provided to retirees under the plan on the privatization date, the coverage provided to eligible retirees may differ, based on factors such as years of service accumulated by a retiree prior to retirement. Thus, the coverage provided to a retiree with six years of service may differ from that provided to a retiree with ten years of service. The assurance of coverage provided by this paragraph is limited in its applicability to those operating contractor employees who are vested participants in their employer's pension plan as of the privatization date and those individuals who retired from such employment as vested plan participants prior to the privatization date. While providing assurance of post retirement health benefit coverage to the specified individuals, paragraph (6) of subsection (a) recognizes the need to allow the provider of such benefits the ability to avail itself of opportunities to do so in an economically efficient manner. The paragraph, therefore, preserves the right of the post-retire-

ment health benefits plan provider (and its successor) to implement cost-saving measures, such as preferred provider organizations, managed care programs, mandatory second opinions before surgery or other medical procedures, and mandatory use of generic drugs, that do not materially diminish the overall quality of the medical care provided through the benefits plan. The paragraph also specifies that the Department of Energy shall continue to pay all of the costs of post-retirement health benefits for employees retiring prior to July 1, 1993, and that the costs of health benefits of employees retiring after that date will be shared by the Department and the private corporation on a pro-rata basis.

Paragraph (7) of subsection (a) provides standing in U.S. district court for suits arising from alleged violations of provisions in the Section not otherwise provided under existing law.

Finally, subsection (b) clarifies current law to provide that employees of the Corporation who transferred to the Corporation from other Federal employment, in addition to pre-privatization rights provided to Federal employees with respect to coverage under the Federal retirement systems, have the option to receive benefits payable to a terminated employee under either the Civil Service Retirement System or the Federal Employees' Retirement System, as applicable, and to transfer their Thrift Savings Plan account balance to a defined contribution plan under the Corporation's retirement system, or to retain their coverage under either the Civil Service Retirement System or the Federal Employees' Retirement System, as applicable, in lieu of coverage by the Corporation's retirement system. Subsection (b) also provides these employees with the option to continue receiving health coverage under the Federal Employee Health Benefits Program if they choose to retain retirement coverage under either CSRS or FERS. Alternatively, the employees may choose to receive health benefits from a Corporation plan.

Sec. 11—Ownership limitations

This section provides that directors, officers and employees of the Corporation may not acquire any securities, or any right to acquire securities, of the Corporation, on any terms more favorable than those offered to the public (1) in the public offering implementing the privatization, (2) pursuant to any agreement, arrangement or understanding entered into before the privatization date, or (3) before the election of directors of the private corporation.

These protections ensure that privatization decisions made by the officer, directors and employees of the Corporation benefit the public interest in maximizing the return to the taxpayer from the sale of this asset and to assure that personal financial considerations not interfere with the decision-making process as various privatization options are considered. The provision ensures that stock options and employee benefits packages are delinked from the privatization process itself.

Sec. 12—Uranium transfers and sales

Subsection (a) makes clear that the Department of Energy is not authorized to provide enrichment services (to ensure that the new

private corporation will not encounter Government competition) and prohibits all sales and transfers of uranium by the Department of Energy to other entities except as consistent with this section.

Subsection (b) addresses the U.S.-Russian HEU Agreement, for which USEC is the current Executive Agent for the United States. This subsection includes mechanisms to ensure that the Russians will receive full payment. The feed material from the current contract through 1996, will be transferred to and sold by the Department of Energy. Feed material from subsequent years will either be returned to the Russians or auctioned by an entity independent of the U.S. Executive Agent subject to specified limitations, with the proceeds, less costs, going to the Russians. Material allowed to be sold into the United States pursuant to this subsection is in addition to quantities of uranium otherwise allowable under the Suspension Agreement.

Specifically, paragraph (1) of subsection (b) provides that the Corporation's funds in the U.S. Treasury will be used to pay the Russians for the natural uranium feed component of low-enriched uranium derived from at least 18 metric tons of highly enriched uranium purchased from the Russian Executive Agent under the Russian HEU Agreement. USEC is directed to transfer this feed component, without charge and prior to December 31, 1996, to the Department of Energy. Title for this material transfers to the Secretary of Energy, and the material shall be deemed to be of Russian origin.

Paragraph (2) of subsection (b) directs that within 7 years of the date of enactment of this Act, the Secretary shall sell the uranium hexafluoride transferred to the Secretary pursuant to paragraph (1) at any time for use in the United States for the purpose of overfeeding the gaseous diffusion enrichment plants; at any time for end use outside the United States; or, in calendar year 2001 for consumption by end users in the United States not prior to January 1, 2002 in volumes not to exceed 3 million pounds U_3O_8 equivalent per year. These amounts are outside the limitations contained in paragraph (5) of this subsection.

Paragraph (3) of subsection (b) addresses all enriched uranium that is delivered to the United States Executive Agent under the Russian HEU Agreement on or after January 1, 1997. With respect to this material, the United States Executive Agent shall, upon request of the Russian Executive Agent, enter into an agreement to deliver to the Russian Executive Agent an amount of uranium hexafluoride equivalent to the natural uranium component of such enriched uranium. Uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall be deemed under U.S. law for all purposes to be of Russian origin. Such uranium hexafluoride may be sold to any person or entity for use outside of the United States at any time, or inside the United States as permitted in subsections (b)(5), (b)(6) and (b)(7) of this section.

Paragraph (4) of subsection (b) establishes an auction mechanism in the event that the Russian Executive Agent does not request the return of the material as provided under paragraph (3) of subsection (b). Proceeds from the auctioned material, less costs, are provided to the Russian Executive Agent.

Paragraph (5) of subsection (b) establishes a schedule under which the Russian material delivered to the Russian Executive Agent under the provisions of paragraph (3) or auctioned under the provisions of paragraph (4) may be delivered for consumption by end users in the United States. The purpose of this schedule is to provide a reasonable, predictable, and measured introduction of this Russian material into the domestic uranium market.

Paragraph (6) of subsection (b) specifies that the Russian material delivered to the Russian Executive Agent under the provisions of paragraph (3) or auctioned under the provisions of paragraph (4) may be sold at any time as Russian-origin natural uranium in a matched sale pursuant to the Suspension Agreement, and in such case shall not be counted against the annual maximum deliveries set forth in paragraph (5).

Paragraph (7) of subsection (b) specifies that the Russian material delivered to the Russian Executive Agent under the provisions of paragraph (3) or auctioned under the provisions of Paragraph (4) may be sold at any time for use in the United States for the purpose of overfeeding uranium enrichment facilities.

Paragraph (8) of subsection (b) notes that nothing in subsection (b) shall restrict the sale of the conversion component of uranium hexafluoride.

Paragraph (8) also prohibits swaps, loans and exchanges of the Russian uranium hexafluoride that is subject to paragraph (5) of subsection (b), except there is no limitation on the conversion component of the Russian material so that it can be easily sold to end users at any time. The purpose of this limitation is to prevent swaps or exchanges of uranium hexafluoride prior to enrichment that might result in the national origin of such material being changed by its enrichment overseas.

Paragraph (9) of subsection (b) designates responsibilities for enforcement and administration of limitations in the subsection. In order to minimize the burden of compliance on consumers of uranium, the Secretary of Commerce should, to the maximum extent possible, use existing administrative forms and processes to ensure compliance with this section.

Paragraph (10) requires the President to monitor the actions of the United States Executive Agent under the Russian HEU Agreement and to produce an annual report outlining the effect the low-enriched uranium delivered under the Agreement is having on the domestic uranium mining, conversion, and enrichment industries, and the operation of the gaseous diffusion plants.

Subsection (c) directs the Secretary to transfer 50 metric tons of enriched uranium and 7,000 metric tons of natural uranium without charge from the Department of Energy to the Corporation and outlines the restrictions for the end use of this material.

Subsection (d) specifies the manner in which the Department of Energy may undertake inventory sales and transfers from its stockpile. To enhance the competitiveness of the uranium enrichment market, it is the intent of Congress that the Secretary shall sell material directly into the market in lots of a size that end users can bid on it.

Subsection (e) allows specific government transfers of enriched uranium to: (1) a Federal agency if the material is transferred for

the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications; (2) any person for national security purposes, as determined by the Secretary; or (3) any state or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.

Subsequent (f) notes that nothing in the act shall be read to modify the terms of the Russian HEU Agreement.

Sec. 13—Low-level waste

The interstate low-level radioactive waste compacts of which Kentucky and Ohio are a part never envisioned or planned to accommodate the disposal of low-level radioactive waste generated from uranium enrichment and the operation of the gaseous diffusion plants since such wastes were expected to remain the responsibility of the Department of Energy. Therefore, paragraph (1) of subsection (a) directs the Secretary of Energy, at the request of the Corporation or any domestic NRC-licensed generator of low-level radioactive waste from enrichment activities, to accept for disposal low-level radioactive waste, including depleted uranium if it is ultimately determined to be low-level radioactive waste.

Paragraph (2) of subsection (a) provides that the generator of the waste accepted for disposal by the Department of Energy pursuant to paragraph 1, shall reimburse the Secretary for the costs incurred by the Secretary for the disposal of the low-level radioactive waste, including a pro rata share of any capital costs—but in no event more than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for disposal of such waste.

In the event depleted uranium is ultimately determined to be low-level radioactive waste, the generator shall reimburse the Secretary for the costs incurred by the Secretary for the disposal of depleted uranium pursuant to paragraph (1) in a amount equal to the Secretary's costs, including a pro rata share of any capital costs.

Subsection (b) specifies, however, that a generator may also enter into agreements for the disposal of low-level radioactive waste with any person other than the Secretary that is authorized by applicable laws and regulations to dispose of such wastes.

Subsection (c) makes clear that notwithstanding any other provision of law, including the Low-Level Radioactive Policy Act, as amended, that no State or interstate compact shall be liable for the treatment, storage, or disposal of any low-level radioactive waste (including mixed waste) attributable to the operation, decontamination, and decommissioning of any uranium enrichment facility.

Sec. 14—AVLIS

Atomic Vapor Laser Isotope Separation (AVLIS) enrichment technology is a promising, low cost enrichment technology that had been studied but not deployed by the Department of Energy. This section was originally enacted as section 1602 of the Energy Policy Act of 1992. Subsection (a) grants the Corporation the exclusive commercial right to deploy and use any AVLIS patents, processes, and technical information owned or controlled by the Government, upon completion of a royalty agreement with the Secretary. The

Secretary and the Corporation have entered into an agreement dated April 27, 1995. Nothing in this section is intended to modify that agreement.

Subsection (b) directs the transfer of directly related and materially useful properties related to AVLIS and other alternative enrichment technologies to the Corporation.

Subsection (c) specifies that the Corporation shall bear the liabilities for patent and similar claims related to AVLIS, but that reductions of royalty payments shall offset any resulting payments, awards, settlements or judgments.

Sec. 15—Gaseous diffusion technology

Subsection (a) directs that the Corporation shall have the exclusive commercial rights for both uranium enrichment and non-uranium enrichment uses of any patents, patent applications, trade secrets, and other technical information related to the gaseous diffusion technology owned or controlled by the Department of Energy, or by the United States but under control or custody of the Department of Energy.

Further, subsection (a) directs the Corporation to enter into an exclusive licensing agreement with the Department of Energy providing for royalty payments of 3% of the gross revenues realized by the Corporation from its non-uranium enrichment commercial uses of such patents, patent applications, trade secrets, and other technical information, and for the reduction of such royalty payments to offset any payments, awards, settlements or judgments involving the Corporation's deployment or licensing of its rights under this section.

Subsection (b) clarifies that any new patents, trade secrets, and other technical information developed for commercial applications that derive from the gaseous diffusion technology initially licensed by the Corporation shall be at the Corporation's expense and shall be free from royalties to the Department of Energy.

Sec. 16—Application of certain laws

Section 16(a) ensures that upon privatization, the Corporation will be subject to the Occupational Safety and Health Act of 1970 to the same extent as all other private employers in the nuclear industry. Nothing in this subsection limits, restricts or otherwise affects the statutory authority of the NRC over radiological hazards at the Corporation's work sites.

Section 16(b) provides that for purposes of the antitrust laws, the performance by the private corporation of certain "matched import" agreements shall be considered to have occurred prior to the privatization date. This provision ensures that with respect to this narrow class of agreements, the private corporation should not be subject to antitrust liability for performance of agreements approved by the Department of Commerce and entered into by the Corporation while it enjoyed immunity from antitrust laws.

Section 16(c) maintains existing provisions in the Energy Policy Act of 1992 that clarify that the private corporation and its operating contractor will remain subject to section 211 of the Energy Reorganization Act to the same extent as an employer subject to section 211 and that, with respect to the operation of the gaseous dif-

fusion plants, section 206 of the Energy Reorganization Act will remain applicable to the directors and officers of the private corporation.

Sec. 17.—Amendments to the Atomic Energy Act

Subsection (a) repeals, as of the privatization date, chapters 22 through 26 of the Atomic Energy Act which related to the formation and operation of the Corporation as a wholly owned Government corporation. These provisions will be unnecessary after privatization.

Subsection (b) addresses certain issues related to NRC licensing. Paragraphs (1) and (4) will subject uranium enrichment facilities using the AVLIS technology to the same licensing requirements as other uranium enrichment facilities. Paragraph (1) amends the definition of the term "production facility" set forth in section 11 of title I of the Atomic Energy Act to exclude the construction and operation of a uranium enrichment facility using Atomic Vapor Laser Isotope Separation (AVLIS) technology from the definition of production facility. Paragraph (4) clarifies that any uranium enrichment facility using AVLIS technology would be eligible for one-step licensing under the materials licensing provisions of sections 53, 63 and 193 of the Atomic Energy Act.

Paragraph (2) amends section 193 of the Atomic Energy Act by adding a new subsection (f) that provides that no license or certificate of compliance may be issued by the NRC to the Corporation or its successor under sections 53, 63, 193 or 1701 if in the opinion of the NRC the issuance of such license or certificate would be inimical to the common defense or security of the United States or would be inimical to the maintenance of a reliable and economical domestic source of enrichment services because of the nature and extent of the ownership, control, or domination of the Corporation by a foreign corporation or a foreign government or any other relevant factors or circumstances.

Paragraph (3) amends section 1701(c)(2) of the Atomic Energy Act to provide that the Corporation be required to apply to the NRC for a certificate of compliance periodically rather than annually. With periodic certification, the NRC would have the flexibility to determine the appropriate length of certification, not to exceed five years.

Paragraph (4) amends section 1702(a) of the Atomic Energy Act to provide that Corporation facilities using AVLIS technology will be licensed under sections 53, 63, and 193 of the Atomic Energy Act to allow for one-step licensing, consistent with the licensing requirements of other uranium enrichment facilities.

Subsection (c) amends section 189b. of the Atomic Energy Act to make NRC certification related decisions and rules subject to judicial review directly in the courts of appeals, consistent with the judicial review of final NRC licensing and related rulemaking determinations.

Similarly, subsection (d) amends section 234a. of the Atomic Energy Act to extend NRC's authority to assess civil monetary penalties to violations of the NRC's certification requirements, consistent with NRC's authority to assess such penalties for violations of NRC licensing requirements.

Subsection (e) provides that following privatization all references in the Atomic Energy Act to the Corporation shall be deemed to be references to the private corporation.

Sec. 18.—Amendments to other laws

Section 18 amends, as of the privatization date, the provisions of 31 U.S.C. 9101 to reflect the Corporation's private status.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs has been provided by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 20, 1995.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 755, the USEC Privatization Act.

Enacting S. 755 would affect direct spending; therefore, pay-as-you-go procedures would apply.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 755.
2. Bill title: USEC Privatization Act.
3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources on September 21, 1995.
4. Bill purpose: S. 755 would provide a legislative framework for converting the United States Enrichment Corporation (USEC) from federal to private ownership and for resolving various policy issues related to the uranium industry. The bill would divide assets and liabilities of the corporation between the federal government and a privatized corporation, clarifying responsibility for employee benefits, the disposal of low-level radioactive wastes, the purchase and marketing of materials derived from highly enriched uranium (HEU) from U.S. and Russian nuclear warheads, and other corporate activities. Under this bill, the private corporation would be given the exclusive commercial rights to certain patents and related information owned by DOE for gaseous diffusion process (GDP) technology and the rights to certain licenses and assets related to Advanced Laser Isotope Separation technology developed by the federal government.
5. Estimated cost to the Federal government: While it is possible the USEC could become a private corporation under current law, such action does not appear likely because of numerous policy and contractual concerns. Hence, CBO believes that USEC would re-

main a government-owned entity under current law and that enacting the bill would be sufficient to remove the policy impediments to privatization. Under S. 755, it is possible that the USEC would not be transferred to private ownership, but we have no reason to assume that outcome. As a result, CBO estimates that enacting S. 755 would lead to a sale of USEC over the 1996–1997 period, and that completing the sale would have the budgetary impact shown in the following table.

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000
Receipts From Asset Sales [1]						
Estimate budget authority		−500	−1,150	−21	−54	−55
Estimated outlays		−500	−1,150	−21	−54	−55
Direct Spending						
Spending under current law:						
Estimate budget authority						
Estimated outlays	−355	−183	−88	10	88	159
Proposed changes:						
Estimate budget authority						
Estimated outlays		306	8	−10	−88	−159
Spending under S. 755:						
Estimate budget authority						
Estimated outlays	−355	123	−80			

[1] Under the 1996 budget resolution, proceeds from asset sales are counted in the budget totals for purposes of Congressional scoring. Under the Balanced Budget Act, however, proceeds from asset sales are not counted in determining compliance with the discretionary spending limits or pay-as-you-go requirements.

The costs of this bill fall within budget function 270.

6. Basis of estimate: CBO estimates that privatizing USEC would have the effect of reducing federal outlays by a total of $1,723 million over the 1996–2000 period. Most of this total would be derived from selling USEC to the private sector. Based on the information provided by USEC, DOE, and the Department of the Treasury, we estimate that privatization through a stock offering or merger would yield about $1.65 billion in asset sale proceeds over fiscal years 1996 and 1997, net of any transfer of cash balances held at the Treasury. That estimate of sale proceeds includes an estimated $100 million resulting from the proposed transfer of 50 metric tons of U.S. HEU and 7,000 metric tons of natural uranium from DOE to the corporation prior to privatization. (The estimate excludes the value of selling additional uranium to be derived from Russian HEU, which is shown separately for fiscal years 1998–2000 and is discussed below.) The 1996–1997 total of $1.65 billion in asset sale proceeds also includes about $50 million for the rights to the GDP technology. While $1.65 billion represents CBO's best estimate of the net proceeds, the net sales price could range from $1.3 billion to $1.9 billion, depending on how potential purchasers value USEC's contracts, assets, and prospects for the future.

Direct spending for USEC's operations as a government corporation would change as a result of privatization and other legislative directives. USEC's direct spending is projected to increase by $306 million in 1996 and $8 million in 1997 because of the costs associated with sale transactions, the equipment and facility upgrades necessary to complete the sale, and the requirement in this bill to

transfer to DOE without charge the natural uranium associated with at least 18 metric tons of HEU purchased from Russia. Once USEC is sold, its net spending under current law would no longer be part of the federal budget. CBO estimates that the resulting savings would total about $260 million over the 1998–2000 period.

CBO estimates that DOE's sale of the natural uranium derived from the 18 metric tons of Russian HEU transferred by USEC would result in asset sale proceeds totaling $130 million over the 1998–2000 period. Under this bill, DOE would be required to sell and receive payment for these materials within seven years after enactment subject to certain conditions. Based on information provided by industry and other sources, we assume that DOE would sell most of the materials for use in foreign markets over the 1998–2002 period and would be paid at rates comparable to the current prices for such materials.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enacting S. 755 would affect direct spending; therefore, pay-as-you-go procedures would apply.

Because the bill includes language that would require the use of the sale proceeds for USEC as an offset to direct spending for pay-as-you-go purposes, the following table shows an estimated pay-as-you-go impact that includes receipts of $500 million in 1996, $1,150 million in 1997, and $21 million in 1998. Under current law, the receipts from nonroutine asset sales would not count as an offset to direct spending for pay-as-you-go purposes.

In addition to the asset sale proceeds, the estimate of pay-as-you-go effects includes changes in direct spending by USEC. We estimate that direct spending would increase by $306 million in 1996 and by $8 million in 1997, and would decrease by $10 million in 1998 (when USEC spending would no longer be included in the budget).

[By fiscal year, in millions of dollars]

	1996	1997	1998
Change in outlays	−194	−1,142	−31
Change in receipts	.....	(1)	.....

[1] Not applicable.

8. Estimated cost to State and local governments: None.

9. Estimate comparison: In the President's budget for fiscal year 1996, the Administration proposes the sale of USEC and estimates net proceeds of $1.9 billion over 1996–1997, as compared to CBO's estimate of $1.65 billion. The difference in these estimates is largely attributable to the Administration's higher estimate of the value of the uranium materials proposed for the transfer from DOE to USEC prior to the sale. Other differences are due to provisions in the bill regarding the disposition of the natural uranium derived from 18 metric tons of Russian HEU and the transfer of rights to the GDP technology.

10. Previous CBO estimate: On October 6, 1995, CBO provided an estimate for provisions identical to those in S. 755 that were included in the reconciliation recommendations of the Senate Com-

mittee on Energy and Natural Resources, as ordered reported on September 21, 1995. The estimated budgetary effects of this bill through the year 2000 are the same as those estimated for the reconciliation proposal.

On March 22, 1995, CBO provided an estimate for H.R. 1216, the USEC Privatization Act, as ordered reported by the House Committee on Commerce on March 15, 1995. H.R. 1216 did not include a provision for transfer of the rights to GDP technology, nor did it include any provision regarding the disposition of natural uranium from Russian HEU. The estimates reflect these differences.

11. Estimate prepared by: Kathleen Gramp.

12. Estimate approved by: Robert H. Sunshine for Paul N. Van de Water, Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 755. The bill is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities on private individuals and businesses. Rather, the bill facilitates the sale of a Government asset through the transfer of ownership of the United States Enrichment Corporation to the private sector. The Corporation currently is subject to regulation by a number of Federal and State agencies, including the Nuclear Regulatory Commission, the Occupational Safety and Health Administration and the Environmental Protection Agency. Enactment of the bill and the privatization of the Corporation will not significantly change such regulation.

The bill does not contain any provision for the collection of personal information. Accordingly, the bill will not have any impact on personal privacy. In addition, little if any additional paperwork should result from the enactment of S. 755.

EXECUTIVE COMMUNICATIONS

The pertinent legislative reports and communications received by the Committee from the United States Enrichment Corporation, a government corporation, setting forth Executive agency recommendation relating to S. 755 are set forth below:

U.S. ENRICHMENT CORPORATION,
Bethesda, MD, June 19, 1995.

Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: In furtherance of the Administration's commitments made at the June 13 Hearing on S. 755 before the Senate Committee on Energy and Natural Resources, we are pleased to provide you with the Administration's views on the legislation relating to the privatization of the United States Enrichment Corporation (USEC). These views are presented in the form of a draft bill that would amend the Atomic Energy Act of 1954.

As you know, USEC was established by the Energy Policy Act of 1992 as a wholly owned Government corporation to assume responsibility for the Department of Energy's (DOE) uranium enrichment enterprise. The Energy Policy Act provides for the privatization of USEC and directs the Corporation to submit a strategic plan for privatization to the President and Congress by July 1, 1995. The President's FY 1996 Budget provides for this privatization, and we will be submitting the strategic plan to the President and Congress shortly.

Although the Energy Policy Act provides for USEC's privatization without the enactment of additional legislation, both the Congress and the Administration recognize that certain changes to existing law would smooth USEC's transition to the private sector while maximizing the return to the Government and taxpayers from the privatization of USEC. The enclosed amendments address a number of important issues relating to USEC's privatization, including: NRC licensing of an AVLIS facility, USEC's ability to dispose of low-level radioactive waste, responsibility for liabilities associated with USEC's operation while owned by the Government, the transfer of contracts from the Government to USEC, the transfer of DOE excess uranium to USEC, DOE's authority to sell enriched uranium, the status of matched sales agreements entered into by USEC and confirmed by the Department of Commerce prior to privatization, employee benefits, and foreign ownership limitations on USEC.

The Balanced Budget and Emergency Deficit Control Act of 1985 requires that all revenue and direct spending legislation meet a pay-as-you-go requirement through FY 1998. That is, such legislation should not result in an increase in the deficit; and if it does it would trigger a sequester if not fully offset. The privatization of USEC is expected to result in net proceeds totalling approximately $1.75 billion over FYs 1996–1998. Under the enclosed amendments, up to $1.6 billion of such proceeds would be made available for radioactive waste disposal under the Nuclear Waste Policy Act of 1982. A provision of the Balanced Budget Act generally prohibits counting the proceeds of asset sales as offsets to spending. However, the enclosed amendments include a provision to allow the proceeds to be counted as offsets to spending. This provision is patterned after the waivers of emergency spending provided by the Balanced Budget Act and is proposed for several asset sales being recommended by the Administration for FY 1996.

One aspect of pending privatization legislation that is not addressed in the enclosed amendments is section 6 of S. 755. That section speaks to the disposition of the natural uranium component of highly enriched uranium from nuclear weapons of the former Soviet Union being purchased under the government-to-government agreement between the United States and the Russian Federation (Russian HEU Agreement). As expressed at the June 13 Hearing, the Administration has serious concerns about the feasibility of the solution set forth in S. 755 and its potential to threaten continued implementation of the Russian HEU Agreement.

The Administration's is committed to making the Russian HEU Agreement a success and, as Department of Energy Under Secretary Curtis advised at the June 13 Hearing, will be engaging this

issue with the Russian Federation over the next several weeks in connection with your meeting with Prime Minister Chernomyrdin. We would expect to submit to you the Administration's approach to this important issue in that time frame.

We appreciate the Committee's commitment to work with the Administration to address this and other issues relating to the privatization of USEC. Our aim, like yours, is to ensure that USEC's privatization is a success for all concerned.

The Office of Management and Budget advises that the enactment of this legislation would be in accord with the program of the President.

Sincerely,

WILLIAM H. TIMBERS, Jr.

Enclosure.

A BILL To amend the Atomic Energy Act of 1954 to provide for the privatization of the United States Enrichment Corporation

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "USEC Privatization Act".

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

SEC. 2. PRODUCTION FACILITY.

Paragraph v. of section 11 (42 U.S.C. 2014v.), is amended by striking "or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology".

SEC. 3. DEFINITIONS.

Section 1201 (42 U.S.C. 2297) is amended—

(1) in paragraph (4), by inserting before the period the following: "and any successor corporation established through privatization of the Corporation";

(2) by redesignating paragraphs (10) through (13) as paragraphs (13) through (16), respectively, and by inserting after paragraph (9) the following new paragraphs:

"(10) The term 'low level radioactive waste' has the meaning given such term in section 2(9) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b(9)).

"(11) The term 'privatization' means the transfer of ownership of the Corporation to private investors pursuant to chapter 25.

"(12) The term 'privatization date' means the date on which 100 percent of ownership of the Corporation has been transferred to private investors.";

(3) by inserting after paragraph (16) (as redesignated) the following new paragraph:

"(17) The term 'transition date' means July 1, 1993."; and

(4) by redesignating the unredesignated paragraph (14) as paragraph (18).

SEC. 4. EMPLOYEES OF THE CORPORATION.

(a) PARAGRAPHS (1) AND (2).—Paragraphs (1) and (2) of section 1305(e) (42 U.S.C. 2297b–4(e)(1) and (2)) are amended to read as follows:

"(1) CONTINUATION OF ACCRUED, VESTED PENSION BENEFITS.—Privatization shall not diminish the accrued, vested pension benefits of employees of the Corporation's operating contractor at the two gaseous diffusion plants.

"(2) CONTINUATION OF COLLECTIVE BARGAINING AGREEMENT.—Privatization shall not affect the validity or enforceability of any current collective bargaining agreement to which the Corporation's operating contractor at the two gaseous diffusion plants is a party as of the privatization date. In the event that a collective bargaining agreement has expired and is being renegotiated at a facility on the privatization date, the operating contractor shall continue to observe its obligations under the National Labor Relations Act.".

(b) PARAGRAPH (4).—Paragraph (4) of section 1305(e) (42 U.S.C. 2297b–4(e)(4)) is amended to read as follows:

"(4) BENEFITS OF TRANSFEREES.—

"(A) Employees of the Corporation who were subject to either the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS) on the day immediately preceding the privatization date pursuant to section 1305 as then in effect, still elect—

"(i) to retain their coverage under CSRS or FERS, as applicable, in lieu of coverage by the Corporation's retirement system, or

"(ii) to receive a deferred annuity or lumpsum benefit payable to a terminated employee under CSRS or FERS, as applicable.

Those employees electing (ii) shall have the option to transfer the balance in their Thrift Savings Plan account to a defined contribution plan under the Corporation's retirement system, consistent with applicable law and the terms of the Corporation's defined contribution plan.

"(B) The Corporation shall pay to the Civil Service Retirement and Disability Fund—

"(i) such employee deductions and agency contributions as are required by sections 8334, 8422, and 8423 of title 5, United States Code, for those employees who elect to retain

their coverage under either CSRS or FERS pursuant to subparagraph (A);

"(ii) such additional agency contributions as are determined necessary by the Office of Personnel Management to pay, in combination with the sums under subparagraph (i), the "normal cost" (determined using dynamic assumptions) of retirement benefits for those employees who elect to retain their coverage under CSRS pursuant to subparagraph (A), with the concept of "normal cost" being utilized consistent with generally accepted actuarial standards and principles; and

"(iii) such additional amounts, not to exceed two percent of the amounts under subparagraphs (i) and (ii), as are determined necessary by the Office of Personnel Management to pay the cost of administering retirement benefits for employees who retire from the Corporation after the privatization date under either CSRS or FERS, for their survivors, and for survivors of employees of the Corporation who die after the privatization date (which amounts shall be available to the Office of Personnel Management as provided in section 8348(a)(1)(B) of title 5, United States Code).

"(C) The Corporation shall pay to the Thrift Savings Fund such employee and agency contributions as are required by section 8432 of title 5, United States Code, for those employees who elect to retain their coverage under FERS pursuant to subparagraph (A).

"(D) For those employees of the Corporation who were subject to the Federal Employees Health Benefits Program (FEHBP) on the day immediately preceding the privatization date pursuant to section 1305 as then in effect and who elect to retain their coverage under either CSRS or FERS pursuant to subparagraph (A), it shall be their option as to whether to receive health benefits from a health benefit plan established by the Corporation or to continue without interruption their coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

"(E) The Corporation shall pay to the Employees Health Benefits Fund—

"(i) such employee deductions and agency contributions as are required by section 8900(a)–(f) of title 5, United States Code, for those employees who elect to retain their coverage under FEHBP pursuant to subparagraph (D); and

"(ii) such amounts as are determined necessary by the Office of Personnel Management

under subparagraph (F) to reimburse the Office of Personnel Management for contributions under section 8906(g)(1) of title 5, United States Code, for those employees who elect to retain their coverage under FEHBP pursuant to subparagraph (D).

"(F) The amounts required under subparagraph (E)(ii) shall pay the Government contributions for retired employees who retire from the Corporation after the privatization date under either CSRS or FERS, for survivors of such retired employees, and for survivors of employees of the Corporation who die after the privatization date, with said amounts prorated to reflect only that portion of the total service of such employees and retired employees that was performed for the Corporation after the privatization date."

SEC. 5. MARKETING AND CONTRACTING AUTHORITY.

"(a) MARKETING AUTHORITY.—Section 1401(a) (42 U.S.C. 2297c(a)) is amended effective on the privatization date (as defined in section 1201(12) of the Atomic Energy Act of 1954) to read as follows:

"(a) MARKETING AUTHORITY.—Except as provided in this section, the Department may not market enriched uranium (including low-enriched uranium derived from highly enriched uranium) and uranium enrichment and related services.

"(1) RIGHT OF FIRST REFUSAL.—The Department may itself or through a marketing agent of its choice sell enriched uranium (including low-enriched uranium derived from highly enriched uranium) after the privatization date using competitive bidding procedures. After bids have been received through the competitive bidding process, the Secretary may sell to the Corporation the enriched uranium (including low-enriched uranium derived from highly enriched uranium) for which the Department is seeking a purchaser if the Corporation—

"(A) offers purchase terms that, in the judgment of the Secretary, exceed the highest qualifying bid received by the Department or its marketing agent; or

"(B) offers terms that, in the judgment of the Secretary, best serve the public interest for financial, national security, or other reasons.

"(2) MARKETING AGENT.—Without using a competitive process for selecting a marketing agent, the Department may use the Corporation as its marketing agent for entering into contracts for the sale of enriched uranium (including low-enriched uranium derived from highly enriched uranium).

"(3) GOVERNMENTAL TRANSFERS.—Nothing in this section shall be construed to limit the authority of the Secretary to transfer, in any manner the Secretary

deems appropriate, enriched uranium (including low-enriched uranium derived from highly enriched uranium)—

"(A) between the Department and other Federal agencies if the material is transferred solely for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications;

"(B) between the Department and any entity or person for national security purposes, as determined by the Secretary; or

"(C) between the Department and state or local agencies or nonprofit, charitable or educational institutions for use other than for the generation of electricity for commercial use.

"(4) CANCELLATION OF SALE.—Nothing in this section shall be interpreted to preclude the Secretary from canceling a proposed sale for any reason.

"(5) DETERMINATION OF EXCESS.—Sales by the Department under this section of highly enriched uranium or low-enriched uranium derived from highly enriched uranium shall not occur unless the Nuclear Weapons Council has determined that the highly enriched uranium is excess to national security needs.".

(b) TRANSFER OF CONTRACTS.—Section 1401(b) (42 U.S.C. 2297c(b)) is amended—

"(1) in paragraph (2)(B), by adding at end the following: "The privatization of the Corporation shall not affect the terms of, or the rights or obligations of parties to, any such power purchase contract."; and

"(2) by adding at the end thereof the following:

"(3) EFFECT OF TRANSFER.—

"(A) All rights, privileges and benefits under the contracts, agreements, and leases transferred to the Corporation under subsection (b)(1), including the right to amend, modify, extend, revise or terminate any of such contracts, agreements, or leases, were irrevocable assigned to the Corporation for its exclusive benefit under subsection (b)(1).

"(B) Notwithstanding the transfer pursuant to subsection (b)(1), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred under subsection (b)(1) for the performance of its obligations under such contracts, agreements, and leases during their terms. However, full performance by the Corporation shall be considered full performance of the United States' obligations under such contracts, agreements, and leases.

"(C) If a contract, agreement, or lease transferred under subsection (b)(1) is terminated, extended, or materially amended after the privatization date—

"(i) the Corporation shall be responsible for any obligation arising under that contract, agreement, or lease after any extension or material amendment, and

"(ii) the United States shall be responsible for any obligation arising under the contract, agreement, or lease before the termination, extension, or material amendment.

"(D) The Corporation shall reimburse the United States for any amount paid by the United States under a settlement agreement entered into with the consent of the Corporation or under a judgment, if the settlement or judgment—

"(i) arises out of an obligation under a contract, agreement, or lease transferred under subsection (b)(1); and

"(ii) arises out of actions of the Corporation between the privatization date and the date of a termination, extension, or material amendment of such contract, agreement, or lease.".

(c) LEASING OF GASEOUS DIFFUSION FACILITIES OF DEPARTMENT.—Effective on the privatization date (as defined in section 1201(12) of the Atomic Energy Act of 1954), section 1403 (42 U.S.C. 2297c–2) is amended by adding at the end the following:

"(h) LOW-LEVEL RADIOACTIVE WASTE.—

"(1) RESPONSIBILITY OF THE DEPARTMENT; COSTS.—

"(A) The Department, at the request of the Corporation, shall accept for disposal low-level radioactive waste, including depleted uranium if it were ultimately determined to be low-level radioactive waste, generated by the Corporation as a result of the operations of the facilities and related property leased by the Corporation pursuant to subsection (a) or as a result of treatment of such wastes at a location other than the facilities and related property leased by the Corporation pursuant to subsection (a).

"(B) Except as provided in subparagraph (C), the Corporation shall reimburse the Department for the disposal of low-level radioactive waste pursuant to subparagraph (A) in an amount equal to the Department's costs, including a pro rata share of any capital costs, but in no event greater than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for disposal of such waste.

"(C) In the event depleted uranium were ultimately determined to be low-level radioactive waste, the Corporation shall reimburse the Department for the disposal of depleted uranium pursuant to subparagraph (A) in an amount equal to the Department's costs, including a pro rata share of any capital costs.

"(2) AGREEMENTS WITH OTHER PERSONS.—The Corporation may also enter into agreements for the disposal of low-level radioactive waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) with any person other than the Department that is authorized by applicable laws and regulations to dispose of such wastes.".

(d) LIABILITIES.—Effective on the privatization date (as defined in section 1201(12) of the Atomic Energy Act of 1954), section 1406 (42 U.S.C. 2297c–5) is amended to read as follows—

"(a) LIABILITIES BASED ON OPERATIONS BEFORE TRANSITION AND PRIVATIZATION.—

"(1) Except as otherwise provided in this Act, all liabilities arising out of the operation of the uranium enterprise before the transition date shall remain direct liabilities of the Department. With respect to those liabilities that remain liabilities of the United States under paragraph (2), the Department shall be directly liable only for the depleted uranium generated by the operation of the Corporation between the transition date and the privatization date.

"(2) All liabilities arising out of the operation of the Corporation from the transition date to the privatization date, except those liabilities identified as being liabilities of the Corporation in a Memorandum of Agreement entered into by the Corporation and the Office of Management and Budget prior to the privatization date, shall remain direct liabilities of the United States.

"(3) To the extent that any claim against the United States, as defined in paragraph (2), is of the type otherwise required by federal statute or regulation to be presented to a federal agency or official for adjudication or review, such claim shall be presented to the Department in accordance with procedures to be established by the Secretary. Nothing in this paragraph shall be construed to impose on the Department liability to pay any claim presented pursuant to this paragraph.

"(b) REPRESENTATION.—With regard to any action seeking to impose liability under subsection (a) of this section, the United States shall be represented by the Department of Justice.

"(c) LIABILITIES BASED ON OPERATIONS AFTER PRIVATIZATION.—Except as otherwise provided in this Act, including section 1401(b), the Corporation shall be liable for its operations after the privatization date to the same extent as a private corporation under applicable law."

(e) TRANSFER OF URANIUM.—Title II (42 U.S.C. 2297 et seq.) is amended by redesignating section 1408 as section 1409 and inserting after section 1407 the following:

"SEC. 1408. TRANSFER OF URANIUM.

"The Secretary may, before the privatization date, transfer to the Corporation without charge raw uranium, low-enriched uranium and highly enriched uranium. Transfers of highly enriched uranium shall occur only after the highly enriched uranium has been declared excess to national security needs by the Nuclear Weapons Council.".

SEC. 6. PRIVATIZATION OF THE CORPORATION.

(a) ESTABLISHMENT OF PRIVATE CORPORATION.—Chapter 25 (42 U.S.C. 2297d et seq.) is amended by adding at the end the following new section:

"SEC. 1503. ESTABLISHMENT OF PRIVATE CORPORATION.

"(a) IN GENERAL.—In order to facilitate privatization, the Corporation may provide for the establishment of a private corporation organized under the laws of any of the several states. Such corporation shall have among its purposes the following:

"(A) To help maintain a reliable and economical domestic source of uranium enrichment services.

"(B) To undertake any and all activities as provided in its corporate charter.

"(2) AUTHORITIES.—Subject to applicable licensing, certification, and other requirements under this Act, and in the same manner as any other private party, the corporation established pursuant to paragraph (1) shall be authorized to—

"(A) enrich uranium, provide for uranium to be enriched by others, or acquire enriched uranium (including low-enriched uranium derived from highly enriched uranium);

"(B) conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the corporation considers necessary or advisable to maintain itself as a commercial enterprise operating on a profitable and efficient basis;

"(C) enter into transactions regarding uranium, enriched uranium, or depleted uranium with—

"(i) persons licensed under section 53, 63, 103, or 104 in accordance with the licenses held by those persons;

"(ii) persons in accordance with, and within the period of, an agreement for cooperation arranged under section 123; or

"(iii) persons otherwise authorized by law to enter into such transactions;

"(D) enter into contracts with persons licensed under section 53, 63, 103, or 104, for as long as the corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

"(E) enter into contracts to provide uranium or uranium enrichment and related services in ac-

cordance with, and within the period of, an agreement for cooperation arranged under section 123 or as otherwise authorized by law; and

"(F) take any and all such other actions as is permitted by the law of the jurisdiction of incorporation of the corporation.

"(3) ACTIVITIES PRIOR TO PRIVATIZATION.—Prior to privatization, the activities of the corporation established pursuant to subsection (a)(1) shall be limited to those contemplated by the privatization plan approved by the President under section 1502(b).

"(4) TRANSFER OF ASSETS.—Contemporaneous with the privatization, the Corporation may transfer some or all of its assets and obligations and records to the corporation established pursuant to this section, including—

"(A) all of the Corporation's assets and obligations, including all of the Corporation's rights, duties, and obligations accruing subsequent to the privatization date under contracts, agreements, and leases entered into by the Corporation before the privatization date, including all uranium enrichment contracts and power purchase contracts;

"(B) all funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution;

"(C) all of the Corporation's rights, duties and obligations, accruing subsequent to the privatization date, under the power purchase contracts covered by section 1401(b)(2)(B);

"(D) all of the Corporation's rights, duties and obligations, accruing subsequent to the privatization date, under the lease agreement between the Department and the Corporation executed by the Department and the Corporation pursuant to section 1403; and

"(E) all of the Corporation's records, including all of the papers and other documentary materials, regardless of physical form or characteristics, made or received by the Corporation.

"(5) MERGER OR CONSOLIDATION.—Contemporaneous with the privatization, the Corporation may merge or consolidate with the corporation established pursuant to subsection (a)(1) if such action is authorized by the plan for privatization approved by the President under section 1502(b). The Board shall have exclusive authority to approve such merger or consolidation and to take all further actions necessary to consummate such merger or consolidation, and no action by or in respect of shareholders shall be required. The merger or consolidation shall be effected in accordance with, and have the effects of a merger or consolidation under, the laws of the jurisdiction of incorporation of the surviving corporation, and all rights and benefits pro-

vided under this title to the Corporation shall apply to the surviving corporation as if it were the Corporation.

"(b) OSHA REQUIREMENTS.—As of the privatization date, the Corporation shall be subject to and comply with the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.). The Nuclear Regulatory Commission and the Occupational Health and Safety Administration shall, within 90 days after the enactment of this Act, enter into a Memorandum of Agreement regarding the determination and exercise of their authority over occupational safety and health hazards at the gaseous diffusion plants, including inspection, investigation, enforcement, and rulemaking regarding such hazards.

"(c) LEGAL STATUS OF PRIVATE CORPORATION.—

"(1) NOT FEDERAL AGENCY.—The corporation established pursuant to subsection (a)(1) shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a Government corporation or Government-controlled corporation. For purposes of United States antitrust laws, the performance by the corporation established pursuant to subsection (a)(1) of a 'matched import' contract shall be considered to have occurred prior to the privatization date, if at the time of privatization, such contract had been agreed to by the parties in all material terms and confirmed by the United States Department of Commerce under the Amendment to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, Department of Commerce Investigation No. A–821–802, dated March 11, 1994.

"(2) NO RECOURSE AGAINST UNITED STATES.—Obligations of the corporation established pursuant to subsection (a)(1) shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

"(3) NO CLAIMS COURT JURISDICTION.—No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the corporation established pursuant to subsection (a)(1).

"(d) BOARD OF DIRECTOR'S ELECTION AFTER PUBLIC OFFERING.—In the event that the privatization is implemented by means of a public offering, an election of the members of the board of directors of the Corporation by the shareholders shall be conducted before the end of the 1-year period beginning on the date shares are first offered to the public pursuant to such public offering.

"(e) DISSOLUTION.—In the event that the privatization does not occur, the Corporation will provide for the dissolution of the corporation established pursuant to subsection (a)(1) within 1 year of the corporation's incorporation unless the Secretary of the Treasury or his delegate, upon

the Corporation's request, agrees to delay any such dissolution for an additional year.''.

''(b) OWNERSHIP LIMITATIONS.—Chapter 25 (as amended by subsection (a)) is amended by adding at the end the following new section:

SEC. 1504. OWNERSHIP LIMITATIONS.

''(a) SECURITIES LIMITATION.—In the event that the privatization is implemented by means of a public offering, during a period of 3 years beginning on the privatization date, no person, directly or indirectly, may acquire or hold securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation.

''(b) APPLICATION.—Subsection (a) shall not apply—

''(1) to any employee stock ownership plan of the Corporation,

''(2) to underwriting syndicates holding shares for resale, or

''(3) in the case of shares beneficially held for others, to commercial banks, broker-dealers, clearing corporations, or other nominees.

''(c) No director, officer, or employee of the Corporation may acquire any securities, or any right to acquire any securities, of the Corporation—

''(1) in the public offering of securities of the Corporation in the implementation of the privatization,

''(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

''(3) before the election of directors of the Corporation under section 1503(d) on any terms more favorable than those offered to the general public.''.

(c) EXEMPTION FROM LIABILITY.—Chapter 25 (as amended by subsection (b)) is amended by adding at the end the following new section:

''SEC. 1505. EXEMPTION FROM LIABILITY.

''(a) IN GENERAL.—No director, officer, employee, or agent of the Corporation shall be liable in any civil proceeding to any party in connection with any action taken in connection with the privatization if, with respect to the subject matter of the action, suit, or proceeding, such person was acting within the scope of his employment.

''(b) EXCEPTION.—The exemption set forth in subsection (a) shall not apply to claims arising under the Securities Act of 1933, the Securities Exchange Act of 1934, or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities, which claims are in connection with a public offering implementing the privatization.

''(c) SECURITIES LAWS APPLICABLE.—Any offering or sale of securities by the corporation established pursuant to section 1503(a)(1) shall be subject to the Securities Act of 1933, the Securities Exchange Act of 1934 and the provi-

sions of the Constitution and laws of any State, territory, or possession of the United States relating to transactions in securities.''.

''(d) RESOLUTION OF CERTAIN ISSUES.—Chapter 25 (as amended by subsection (c)) is amended by adding at the end the following new section:

''SEC. 1506. RESOLUTION OF CERTAIN ISSUES.

''(a) CORPORATION ACTIONS.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered to be in breach, default, or violation of any such agreement because of any provision of this chapter or any action the Corporation is required to take under this chapter.

''(b) RIGHT TO SUE WITHDRAWN.—The United States hereby withdraws any stated or implied consent for the United States, or any agent, officer, or employee of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising out of, or resulting from, acts or omissions under this chapter.

''(c) ENERGY REORGANIZATION ACT REQUIREMENT.—The corporation established pursuant to section 1503(a)(1) shall be subject to the provisions of section 211 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) to the same extent as an employer subject to such section.''.

''(e) APPLICATION OF PRIVATIZATION PROCEEDS.—Chapter 25 (as amended by subsection (d)) is amended by adding at the end the following new section:

''SEC. 1507. APPLICATION OF PRIVATIZATION PROCEEDS.

''(a) NUCLEAR WASTE FUND AVAILABILITY.—

''(1) If the condition in subsection (b)(2) is met, the net proceeds from the sale of the Corporation under this chapter which are deposited in a special fund in the Treasury under subsection (b)(1) may be used by the Department for radioactive waste disposal activities under the Nuclear Waste Policy Act of 1982. No more than the following amounts shall be made available in the fiscal year specified—

''(A) for fiscal year 1996; $431,600,000;

''(B) for fiscal year 1997; $540,000,000; and

''(C) for fiscal year 1998, $627,400,000.

For purposes of this section, the net proceeds are the revenues derived from the sale of Corporation stock, based upon its sales price less cash payments to the purchasers and less the value assigned to highly enriched and natural uranium transferred from the Department of the Corporation after February 1, 1995, as specified in the stock offering prospectus of the Corporation. In determining net proceeds, the cash and the value of highly enriched uranium shall be prorated in proportion to the amount of stock that is sold to non-Federal entities.

"(2) In addition to the amounts in paragraph (1), amounts deposited in the Nuclear Waste Fund in fiscal years 1996, 1997, and 1998 resulting from any increase in the fee established under the section shall be available to the Department for expenditure for radioactive waste disposal activities under the Nuclear Waste Policy Act of 1982.

"(3) Amounts available under this section shall remain available until expended, without further appropriation but within any specific directives and limitations included in appropriations Acts. Amounts for radioactive waste disposal activities shall be included in the annual budget submitted to Congress for Nuclear Waste Fund activities.

"(b) OFFSETS.—

"(1) The net proceeds from the sale of all stock of the Corporation shall be deposited in a special fund in the Treasury and be available for the purposes specified in subsection (a).

"(2) If the President so designates, the net proceeds shall be included in the budget baseline required by the Balanced Budget and Emergency Deficit Control Act of 1985 and shall be counted for the purposes of section 252 of such Act as an offset to direct spending, notwithstanding section 257(e) of such Act.

"(c) REIMBURSEMENT OF COSTS.—the Secretary of the Treasury shall be reimbursed up to $1,800,000 from the proceeds of the sale of stock of the Corporation for reasonable costs related to the privatization incurred in Fiscal Year 1996.".

(f) CONFORMING AMENDMENT.—The table of contents for chapter 25 is amended by inserting after the item for section 1502 the following:

"Sec. 1503. Establishment of Private Corporation.
"Sec. 1504. Ownership Limitation.
"Sec. 1505. Exemption from Liability.
"Sec. 1506. Resolution of Certain Issues.
"Sec. 1507. Application of Privatization Proceeds.".

(g) REVISION OF SECTION 1502.—Section 1502 (42 U.S.C. 2297d–1) is amended—

(i) in subsection (d) by striking "less than 60 days after notification of the Congress" and inserting "less than 60 days after the date of the report to Congress by the Comptroller General under subsection (c)", and

(ii) by striking subsection (e).

SEC. 7. LICENSING AND REGULATION OF URANIUM ENRICHMENT FACILITIES.

(a) PERIODIC CERTIFICATION OF COMPLIANCE.—Section 1701(c)(2) (42 U.S.C. 2297f(c)(2)) is amended by striking "ANNUAL APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply at least annually to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1)." and inserting "PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation

shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Nuclear Regulatory Commission, but not less than every 5 years.''

(b) LICENSING OF OTHER TECHNOLOGIES.—Subsection (a) of section 1702 (42 U.S.C. 2297f–1(a)) is amended—

(1) by striking ''other than'' and inserting ''including'', and

(2) by striking ''sections 53 and 63'' and inserting ''sections 53, 63 and 193''.

(c) FOREIGN OWNERSHIP LIMITATION.—Chapter 27 (as amended by subsection (b)) is amended by adding at the end the following new section:

''SEC. 1704. FOREIGN OWNERSHIP LIMITATION.

''No License or certificate of compliance may be issued to the Corporation under Sections 53, 63, 193, or 1701 if, in the opinion of the Nuclear Regulatory Commission, the issuance of such a license or certificate of compliance to the Corporation would be inimical to the common defense and security of the United States due to the nature and extent of the ownership, control or domination of the Corporation by a foreign corporation or a foreign government or any other relevant factors or circumstances.''

SEC. 8. JUDICIAL REVIEW OF NUCLEAR REGULATORY COMMISSION ACTIONS.

Section 189b. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(b)) is amended to read as follows:

''b. The following Commission actions shall be subject to judicial review in the manner prescribed in 28 U.S.C. ch. 158, and 5 U.S.C. ch. 7:

''(1) any final order entered in any proceeding of the kind specified in subsection a. above;

''(2) any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license;

''(3) any final order establishing by regulation standards to govern the gaseous diffusion uranium enrichment facilities of the Department of Energy, including any such facilities leased to a corporation established pursuant to section 1503; and

''(4) any final determination relating to whether the gaseous diffusion uranium enrichment facilities of the Department of Energy, including any such facilities leased to a corporation established pursuant to section 1503, are in compliance with the Commission's standards governing the gaseous diffusion uranium enrichment facilities of the Department of Energy and all applicable laws.''

SEC. 9. CIVIL MONETARY PENALTIES FOR VIOLATIONS OF LICENSING OR CERTIFICATION REQUIREMENTS.

(a) IN GENERAL.—Subsection a. of section 234 of the Atomic Energy Act of 1954 (42 U.S.C. 2282(a)) is amended to read as follows:

"a. CIVIL PENALTIES.—

"(1) IN GENERAL.—A person who—

"(A) violates

"(i) a licensing provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109, or any rule, regulation, or order issued under the provision;

"(ii) a certification provision of section 1701, or any rule or regulation issued under the provision; or

"(iii) a term, condition, or limitation of a license or certification issued under a section referred to in clause (i) or (ii); or

"(B) commits a violation for which a license may be revoked under section 186 or a certificate may be revoked under section 1701;

shall be subject to a civil penalty, to be imposed by the Commission, of not to exceed $100,000 for each such violation.

"(2) CONTINUING VIOLATIONS.—If a violation described in paragraph (1) continues for more than 1 day, each day of the violation shall constitute a separate violation for the purpose of determining the applicable civil penalty.

"(3) MODIFICATION OF PENALTY.—The Commission may compromise, mitigate, or remit a penalty required to be imposed under this subsection.".

(b) CONFORMING AMENDMENTS.—

(1) Section 234 of such Act (42 U.S.C. 2282) is amended—

(A) in the section heading, by inserting "OR CERTIFICATION" after "LICENSING";

(B) by inserting after "b." the following: "NOTIFICATION BY THE COMMISSION.—"; and

(C) by inserting after "c." the following: "ACTION BY THE ATTORNEY GENERAL.—".

(2) The table of contents of such Act (42 U.S.C. prec. 2011) is amended by striking the item relating to section 234 and inserting the following new item:

"Sec. 234. Civil monetary penalties for violations of licensing or certification requirements.".

SEC. 10. CONFORMING AMENDMENTS.

(a) REPEALS IN ATOMIC ENERGY ACT OF 1954 AS OF THE PRIVATIZATION DATE.—

(1) REPEALS.—As of the privatization date (as defined in section 1201(12) of the Atomic Energy Act of 1954), the following sections (as in effect on such privatization date) of the Atomic Energy Act of 1954 are repealed:

(A) Section 1202.

(B) Sections 1301 through 1304.

(C) Sections 1306 through 1316.

(D) Sections 1404 and 1405.

(E) Section 1407.
(F) Section 1601.
(G) Sections 1603 through 1607.

(2) CONFORMING AMENDMENT.—The table of contents of such Act is amended by repealing the items referring to sections repealed by paragraph (1).

(b) STATUTORY MODIFICATIONS.—As of such privatization date, the following shall take effect:

(1) For purposes of title I of the Atomic Energy Act of 1954, all references in such Act to the ''United States Enrichment Corporation'' shall be deemed to be references to the corporation established pursuant to section 1503 of the Atomic Energy Act of 1954 (as added by section 6(a)).

(2) Section 1018(1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(1)) is amended by striking ''the United States'' and all that follows through the period and inserting ''the corporation referred to in section 1201(4) of the Atomic Energy Act of 1954.''.

(3) Section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N), as added by section 902(b) of Public Law 102–486.

(c) REVISION OF SECTION 1305.—As of such privatization date, section 1305 of the Atomic Energy Act of 1954 (42 U.S.C. 2297b–4) is amended—

(1) by repealing subsection (a), (b), (c), and (d), and
(2) in subsection (e)—

(A) by striking the subsection designation and heading,

(B) by redesignating paragraphs (1) and (2) (as added by section 4(a)) as subsections (a) and (b) and by moving the margins 2-ems to the left,

(C) by striking paragraph (3), and

(D) by redesignating paragraph (4) (as amended by section 4(b)) as subsection (c), and by moving the margins 2-ems to the left.

(d) REVISION OF SECTION 1309.—Section 1309 of the Atomic Energy Act of 1954 (42 U.S.C. 2297b–8) is amended to read as follows:

''SEC. 1309. BORROWING AUTHORITY PRIOR TO PRIVATIZATION.

''To the extent provided in annual appropriations acts and approved by the Secretary of the Treasury, the Corporation may issues notes or obligations to the Secretary of the Treasury to carry out the purposes of the Corporation under this title, except that the Corporation may not issue notes or obligations for the purpose of constructing new uranium enrichment facilities or conducting directly related preconstruction activities. The aggregate amount of any such notes or obligations outstanding at any one time shall not exceed $250 million. The notes or obligations shall be in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. The

notes or obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding obligations of the United States of comparable maturity.".

CHANGES IN EXISTING LAW

(AS OF THE DATE OF ENACTMENT OF THIS BILL)

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 755, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

THE ATOMIC ENERGY ACT OF 1954

AN ACT for the development and control of atomic energy

* * * * * * *

TITLE I—ATOMIC ENERGY

* * * * * * *

CHAPTER 2. DEFINITIONS

SEC. 11. DEFINITION.—The intent of Congress in the definitions as given in this section should be construed from the words or phrases used in the definitions. As used in this Act:

* * * * * * *

v. The term "production facility" means (1) any equipment or device determined by rule of the Commission to be capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device as determined by the Commission. Except with respect to the export of a uranium enrichment production facility [or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology], such term as used in chapters 10 and 16 shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes or uranium or enriching uranium in the isotope 235.

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CHAPTER 16. JUDICIAL REVIEW AND ADMINISTRATIVE PROCEDURE

* * * * * * *

SEC. 189. HEARINGS AND JUDICIAL REVIEW.

* * * * * * *

b. [Any final order entered in any proceeding of the kind specified in subsection a. above or any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license shall be subject to judicial review in the manner prescribed in the Act of December 29, 1950, as amended (ch. 1189, 64 Stat. 1129), and to the provisions of section 10 of the Administrative Procedure Act, as amended.] *The following Commission actions shall be subject to judicial review in the manner prescribed in chapter 158 of title 28, United States Code and chapter 7 of title 5, United States Code:*

(1) Any final order entered in any proceeding of the kind specified in subsection (a).

(2) Any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license.

(3) Any final order establishing by regulation standards to govern the Department of Energy's gaseous diffusion uranium enrichment plants, including any such facilities leased to a corporation established under the USEC Privatization Act.

(4) Any final determination relating to whether the gaseous diffusion plants, including any such facilities leased to a corporation established under the USEC Privatization Act, are in compliance with the Commission's standards governing the gaseous diffusion plants and all applicable laws.

* * * * * * *

SEC. 193. LICENSING OF URANIUM ENCROACHMENT FACILITIES.

* * * * * * *

(f) LIMITATION.—No license or certificate of compliance may be issued to the United States Enrichment Corporation or its successor under sections 53, 63, 193, or 1701, if in the opinion of the Commission, the issuance of such a license or certificate of compliance—

(i) would be inimical to the common defense and security of the United States; or

(ii) would be inimical to the maintenance of a reliable and economical domestic source of enrichment services because of the nature and extent of the ownership, control, or domination of the Corporation by a foreign corporation or a foreign government or any other relevant factors or circumstances.

* * * * * * *

CHAPTER 18. ENFORCEMENT

* * * * * * *

SEC. 234. CIVIL MONETARY PENALTIES FOR VIOLATIONS OF LICENSING REQUIREMENTS.

a. Any person who (1) violates [any licensing provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109] *any licensing or certification provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, 109 or 1701* or any rule, regulation, or order issued thereunder, or any term, condition, or limitation of [any license issued thereunder] *any license or certification issued thereunder*, or (2) commits any violation for which a license may be revoked under section 186, shall be subject to a civil penalty, to be imposed by the Commission, of not to exceed $100,000 for each day of such viola-

tion. If any violation is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty. The Commission shall have the power to compromise, mitigate, or remit such penalties.

* * * * * * *

TITLE II—UNITED STATES ENRICHMENT CORPORATION

* * * * * * *

CHAPTER 27—LICENSING AND REGULATION OF URANIUM ENRICHMENT FACILITIES

SEC. 1701. GASEOUS DIFFUSION FACILITIES.

* * * * * * *

(c) CERTIFICATION PROCESS.—

(1) ESTABLISHMENT.—The Nuclear Regulatory Commission shall establish a certification process to ensure that the Corporation complies with standards established under subsection (a).

(2) [ANNUAL] *PERIODIC* APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply [at least annually] to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) *periodically, as determined by the Commission, but not less than every 5 years.* The [Nuclear Regulatory] Commission[, in consultation with the Environmental Protection Agency,] shall review any such application and any determination made under subsection (b)(2) shall be based on the results of any such review.

* * * * * * *

SEC. 1702. LICENSING OF OTHER TECHNOLOGIES.

(a) IN GENERAL.—Corporation facilities using alternative technologies for uranium enrichment, [other than] *including* AVLIS, shall be licensed under [sections 53 and 63] *sections 53, 63, and 193.*

* * * * * * *

AN ACT To provide for financial control of Government corporations [59 Stat. 597; 31 USC 9101]

* * * * * * *

§ 9101. Definitions

In this chapter—

* * * * * * *

(3) "wholly owned Government corporation" means—

* * * * * * *

[(N) United States Enrichment Corporation]

AN ACT To provide for improved energy efficiency [106 Stat. 2776; 42 USC 13201 note]

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TITLE X—REMEDIAL ACTION AND URANIUM REVITALIZATION

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Subtitle B—Uranium Revitalization

* * * * * * *

SEC. 1018. DEFINITIONS.

For purposes of this subtitle:

(1) The term ''Corporation'' means the United States Enrichment Corporation established under section 1301 of the Atomic Energy Act of 1954, as added by this Act *or its successor*.

CHANGES IN EXISTING LAW

(AS OF THE PRIVATIZATION OF USEC AS DEFINED IN THIS BILL)

Although it is considered unlikely by the Committee, it is conceivable that the privatization of USEC may not occur for some time, and might not occur at all. Below are the changes in existing law that would occur only upon privatization. Specifically, Chapters 22 through 26 of the Atomic Energy Act of 1954 (42 U.S.C. 1201–1608) would be repealed as of the privatization date.

THE ATOMIC ENERGY ACT OF 1954

AN ACT for the development and control of atomic energy

* * * * * * *

TITLE II—UNITED STATES ENRICHMENT CORPORATION

* * * * * * *

[CHAPTER 22—GENERAL PROVISIONS

[SEC. 1201. DEFINITIONS.

[For purposes of this title:

[(1) The term ''alternative technologies for uranium enrichment'' means technologies to enrich uranium by methods other than the gaseous diffusion process.

[(2) The term ''AVLIS'' means atomic vapor laser isotope separation technology.

[(3) The term ''Board'' means the Board of Directors of the Corporation established under section 1304.

[(4) The term ''Corporation'' means the United States Enrichment Corporation.

[(5) The term ''corrective actions'' has the meaning given such term by the Administrator of the Environmental Protection Agency under section 3004(u) of the Solid Waste Disposal Act (42 U.S.C. 6924(u)).

[(6) The term ''decontamination and decommissioning'' means those activities, other than response actions or corrective actions, undertaken to decontaminate and decommission inactive uranium enrichment facilities that have residual radioactive or mixed radioactive and hazardous chemical contamination, including depleted tailings.

[(7) The term ''Department'' means the Department of Energy.

[(8) The term ''highly enriched uranium'' means uranium enriched to 20 percent or more of the uranium-235 isotope.

[(9) The term ''low-enriched uranium'' means uranium enriched to less than 20 percent of the uranium-235 isotope.

[(10) The term ''releases'' has the meaning given the term 'release' in section 101(22) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(22)).

[(11) The term ''remedial action'' has the meaning given such term in section 101(24) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(24)).

[(12) The term ''response actions'' has the meaning given the term 'response' in section 101(25) of the Comprenhensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(25)).

[(13) The term ''Secretary'' means the Secretary of Energy.

[(14) The term ''uranium enrichment'' means the separation of uranium of a given isotope content into 2 components, 1 having a higher percentage of a fissile isotope and 1 having a lower percentage.

[SEC. 1202. PURPOSES.

[The Corporation is created for the following purposes:

[(1) To operate as a business enterprise on a profitable and efficient basis.

[(2) To maximize the long-term value of the Corporation to the Treasury of the United States.

[(3) To lease Department uranium enrichment facilities, as needed.

[(4) To acquire uranium for uranium enrichment, low-enriched uranium for resale, and highly enriched uranium for conversion into low-enriched uranium, as needed.

[(5) To market and sell its enriched uranium and uranium enrichment and related services to—

[(A) the Department for governmental purposes; and

[(B) domestic and foreign persons, as provided in section 1303(6).

[(6) To conduct research and development as required to meet business objectives for the purposes of identifying, evalu-

ating, improving, and testing alternative technologies for uranium enrichment.

[(7) To conduct the business as a self-financing corporation and eliminate the need for Federal Government appropriations or sources of Federal financing other than those provided in this title.

[(8) To help maintain a reliable and economical domestic source of uranium enrichment services.

[(9) To comply with laws, and regulations promulgated thereunder, to protect the public health, safety, and the environment.

[(10) To continue at all times to meet the objectives of ensuring the Nation's common defense and security, including abiding by United States laws and policies concerning special nuclear materials and nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy.

[(11) To take all other lawful actions in furtherance of these purposes.]

[CHAPTER 23—ESTABLISHMENT, POWERS, AND ORGANIZATION OF CORPORATION

[SEC. 1301. ESTABLISHMENT OF THE CORPORATION.

[(a) IN GENERAL.—There is established a body corporate to be known as the United States Enrichment Corporation.

[(b) GOVERNMENT CORPORATION.—The Corporation shall be established as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act), except as otherwise provided in this title.

[(c) FEDERAL AGENCY.—The Corporation shall be an agency and instrumentality of the United States.

[SEC. 1302. CORPORATE OFFICES.

[The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

[SEC. 1303. POWERS OF THE CORPORATION.

[In order to accomplish its purposes, the Corporation—

[(1) shall, except as provided in this title or applicable Federal law, have all the powers of a private corporation incorporated under the District of Columbia Business Corporation Act;

[(2) shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

[(3) may obtain from the Administrator of General Services the services the Administrator is authorized to provide agencies of the United States, on the same basis as those services are provided to other agencies of the United States;

[(4) shall enrich uranium, provide for uranium to be enriched by others, or acquire enriched uranium (including low-

enriched uranium derived from highly enriched uranium provided under section 1408);

[(5) may conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the Corporation considers necessary or advisable to maintain the Corporation as a commercial enterprise operating on a profitable and efficient basis;

[(6) may enter into transactions regarding uranium, enriched uranium or depleted uranium with—

[(A) persons licensed under sections 53, 63, 103, or 104 in accordance with the licenses held by those persons;

[(B) persons in accordance with, and within the period of an agreement for cooperation arranged under section 123; or

[(C) persons otherwise authorized by law to enter into such transactions;

[(7) may enter into contracts with persons licensed under section 53, 63, 103, or 104, for as long as the Corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

[(8) may enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged under section 123 or as otherwise authorized by law; and

[(9) shall sell to the Department as provided in this title, without regard to section 57 e., the amounts of uranium enrichment and related services that the Department determines from time to time are required for it to—

[(A) carry out Presidential directions and authorizations under section 91; and

[(B) conduct other Department programs.

[SEC. 1304. BOARD OF DIRECTORS.

[(a) IN GENERAL.—The powers of the Corporation are vested in the Board of Directors.

[(b) APPOINTMENT.—The Board of Directors shall consist of 5 individuals, to be appointed by the President by and with the advice and consent of the Senate. The President shall designate a Chairman of the Board from among members of the Board.

[(c) QUALIFICATIONS.—Members of the Board shall be citizens of the United States. No member of the Board shall be an employee of the Corporation or have any direct financial relationship with the Corporation other than that of being a member of the Board.

[(d) TERMS.—

[(1) IN GENERAL.—Except as provided in paragraph (2), members of the Board shall serve 5-year terms or until the election of a new Board of Directors under section 1704, whichever comes first.

[(2) INITIAL MEMBERS.—Of the members first appointed to the Board—

[(A) 1 shall be appointed for a 1-year term;

[(B) 1 shall be appointed for a 2-year term;

[(C) 1 shall be appointed for a 3-year term;

[(D) 1 shall be appointed for a 4-year term.

[(3) REAPPOINTMENT.—Members of the Board may be reappointed by the President, by and with the advice and consent of the Senate.

[(e) VACANCIES.—Upon the occurrence of a vacancy on the Board, the President by and with the advice and consent of the Senate shall appoint an individual to fill such vacancy for the remainder of the applicable term.

[(f) MEETINGS AND QUORUM.—The Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly. Three voting members of the Board shall constitute a quorum. A majority of the Board shall adopt and from time to time may amend bylaws for the operation of the Board.

[(g) POWERS.—The Board shall be responsible for general management of the Corporation and shall have the same authority, privileges, and responsibilities as the board of directors of a private corporation incorporated under the District of Columbia Business Corporation Act.

[(h) COMPENSATION.—Members of the Board shall serve on a part-time basis and shall receive per diem, when engaged in the actual performance of Corporation duties, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

[(i) MEMBERSHIP OF SECRETARY OF TREASURY.—The President may appoint the Secretary of the Treasury or his designee to serve as a member of the Board or as a nonvoting, ex officio member of the Board.

[(j) CONFLICT OF INTEREST REQUIREMENTS.—No director, officer, or other management level employee of the Corporation may have a financial interest in any customer, contractor, or competitor of the Corporation or in any business that may be adversely affected by the success of the Corporation.

[SEC. 1305. EMPLOYEES OF THE CORPORATION

[(a) APPOINTMENT.—The Board shall appoint such officers and employees as are necessary for the transaction of its business.

[(b) COMPENSATION, DUTIES, AND REMOVAL.—The Board shall, without regard to section 5301 of title 5, United States Code, fix the compensation of all officers and employees of the Corporation, define their duties, and provide a system of organization to fix responsibility and promote efficiency. Any officer or employee of the Corporation may be removed in the discretion of the Board.

[(c) APPLICABLE CRITERIA.—The Board shall ensure that the personnel function and organization is consistent with the principles of section 2301(b) of title 5, United States Code, relating to merit system principles. Officers and employees shall be appointed, promoted, and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

[(d) TREATMENT OF PERSONS EMPLOYED PRIOR TO TRANSITION DATE.—Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the transition date, whether provided by statute or by rules of the Department or the

executive branch, shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Board.

[(e) PROTECTION OF EXISTING EMPLOYEES.

[(1) IN GENERAL.—It is the purpose of this subsection to ensure that the establishment of the Corporation pursuant to this chapter shall not result in any adverse effects on the employment rights, wages, or benefits of employees at facilities that are operated, directly or under contract, in the performance of the functions vested in the Corporation.

[(2) APPLICABILITY OF EXISTING COLLECTIVE BARGAINING AGREEMENT.—Any employer (including the Corporation at a facility described in paragraph (1) shall abide by the terms of a collective bargaining agreement in effect on April 30, 1991, at each individual facility until—

[(A) the earlier of the date on which a new bargaining agreement is signed; or

[(B) the end of the 2-year period beginning on the date of the enactment of this title.

[(3) APPLICABILITY OF NLRA.—Except as specifically provided in this subsection, the Corporation is subject to the provisions of the National Labor Relations Act (29 U.S.C. 151 et seq.).

[(4) BENEFITS OF TRANSFEREES AND DETAILEES.—At the request of the Board and subject to the approval of the Secretary, an employee of the Department may be transferred or detailed as provided for in section 1315, to the Corporation without any loss in accrued benefits or standing within the Civil Service System. For those employees who accept transfer to the Corporation, it shall be their option as to whether to have any accrued retirement benefits transferred to a retirement system established by the Corporation or to retain their coverage under either the Civil Service Retirement System or the Federal Employees' Retirement System, as applicable, in lieu of coverage by the Corporation's retirement system. For those employees electing to remain with one of the Federal retirement systems, the Corporation shall withhold pay and make such payments as are required under the Federal retirement system. For those Department employees detailed, the Department shall offer those employees a position of like grade, compensation, and proximity to their official duty station after their services are no longer required by the Corporation.

[SEC. 1306. AUDITS.

[(a) INDEPENDENT AUDITS.—

[(1) IN GENERAL.—The financial statements of the Corporation shall be prepared in accordance with generally accepted accounting principles and shall be audited annually by an independent certified public accountant in accordance with auditing standards issued by the Comptroller General. Such auditing standards shall be consistent with the private sector's generally accepted auditing standards.

[(2) REVIEW BY GAO.—The Comptroller General may review any audit of the Corporation's financial statements conducted under paragraph (1). The Comptroller General shall report to

the Congress and the Corporation the results of any such review and shall include in such report appropriate recommendations.

[(b) GAO AUDITS.—

[(1) IN GENERAL.—The Comptroller General may audit the financial statements of the Corporation for any year in the manner provided in subsection (a)(1).

[(2) REIMBURSEMENT BY CORPORATION.—The Corporation shall reimburse the Comptroller General for the full cost of any audit conducted under this subsection, as determined by the Comptroller General.

[(c) AVAILABILITY OF BOOKS AND RECORDS.—All books, accounts, financial records, reports, files, papers, and other property belonging to or in use by the Corporation and its auditor that the Comptroller General considers necessary to the performance of any audit or review under this section shall be made available to the Comptroller General,subject to section 1314.

[(d) TREATMENT OF GAO AUDITS.—Activities the Comptroller General conducts under this section shall be in lieu of any other audit of the financial transactions of the Corporation the Comptroller General is required to make under chapter 91 of title 31, United States Code, or other law.

[SEC. 1307. ANNUAL REPORTS

[(a) IN GENERAL.—The Corporation shall prepare and submit an annual report of its activities to the President and the Congress. This report shall contain—

[(1) a general description of the Corporation's operations;

[(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends;

[(3) copies of audit reports prepared under section 1305;

[(4) the information required under regulations issued under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m); and

[(5) an identification and assessment of any impairment of capital or ability of the Corporation to comply with this title.

[(b) DEADLINE.—The report shall be completed not later than 150 days following the close of each of the Corporation's fiscal years and shall accurately reflect the financial position of the Corporation at fiscal year end.

[SEC. 1308. ACCOUNTS.

[(a) ESTABLISHMENT OF UNITED STATES ENRICHMENT CORPORATION FUND.—There is established in the Treasury of the United States a revolving fund, to be known as the ''United States Enrichment Corporation Fund'', which shall be available to the Corporation, without need for further appropriation and without fiscal year limitation, for carrying out its purposes, functions, and powers, and which shall not be subject to apportionment under subchapter II of chapter 15 of title 31, United States Code.

[(b) TRANSFER OF UNEXPENDED BALANCES.—On the transfer date, the Secretary shall, without need of further appropriation, transfer to the Corporation the unexpended balance of appropriations and other monies available to the Department (inclusive of

funds set aside for accounts payable), and accounts receivable which are related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

[SEC. 1309. OBLIGATIONS.

[(a) ISSUANCE.—

[(1) IN GENERAL.—The Corporation may issue and sell bonds, notes, and other evidences of indebtedness (collectively referred to in this title as "bonds"), except that the Corporation may not issue or sell bonds for the purpose of constructing new uranium enrichment facilities or conducting directly related preconstruction activities. Borrowing under this paragraph during any fiscal year ending before October 1, 1996, shall be subject to approval in appropriation Acts.

[(2) USE OF REVENUES.—The Corporation may pledge and use its revenues for payment of the principal of and interest on its bonds, for their purchase or redemption, and for other purposes incidental to these functions, including creation of reserve funds and other funds that may be similarly pledged and used.

[(3) AGREEMENTS WITH HOLDERS AND TRUSTEES.—The Corporation may enter into binding covenants with the holders and trustees of its bonds with respect to—

[(A) the establishment of reserve and other funds;

[(B) stipulations concerning the subsequent issuance of bonds; and

[(C) other matters not inconsistent with this title;

that the Corporation determines necessary or desirable to enhance the marketability of the bonds.

[(b) NOT OBLIGATIONS OF UNITED STATES.—Bonds issued by the Corporation under this section shall not be obligations of, or guaranteed as to principal or interest by, the United States, and the bonds shall so plainly state.

[(c) TERMS AND CONDITIONS.—

[(1) NEGOTIABLE; MATURITY.—Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified in the bond and shall mature not more than 50 years after their date of issuance.

[(2) ROLE OF SECRETARY OF THE TREASURY.—

[(A) RIGHT OF DISAPPROVAL.—The Corporation may set the terms and conditions of bonds issued under this section, subject to disapproval of such terms and conditions by the Secretary of the Treasury within 5 days after the Secretary of the Treasury is notified of the following terms and conditions of the bonds;

[(i) Their forms and denominations.

[(ii) The times, amounts, and prices at which they are sold.

[(iii) Their rates of interest.

[(iv) The terms at which they may be redeemed by the Corporation before maturity.

[(v) The priority of their claims on the Corporation's net revenues with respect to principal and interest payments.

[(vi) Any other terms and conditions.

[(B) INAPPLICABILITY OF RIGHT TO PRESCRIBE TERMS.—Section 9108(a) of title 31, United States Code, shall not apply to the Corporation.

[(d) INAPPLICABILITY OF SECURITIES REQUIREMENTS.—The Corporation shall be considered an executive department of the United States for purposes of section 3(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(c)).

[(e) INAPPLICABILITY OF FFB.—The Corporation shall not issue or sell any bonds to the Federal Financing Bank.

[SEC. 1310. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.

[(a) EXEMPTION FROM TAXATION.—In order to render financial assistance to those States and localities in which the facilities of the Corporation are located, the Corporation shall, beginning in fiscal year 1998, make payments to State and local governments as provided in this section. These payments shall be in lieu of any and all State and local taxes on the real and personal property of the Corporation. All property of the Corporation is expressly exempted from taxation in any manner or form by any State, county, or other local government entity including State, county, or other local government sales tax.

[(b) PAYMENTS IN LIEU OF TAXES.—Beginning in fiscal year 1998, the Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the State and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making these determinations, the Corporation shall be guided by the following criteria:

[(1) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

[(2) The payment made to any taxing authority for any period shall not be less than the payments that would have been made to the taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1404 and that would have been attributable to the ownership, management, operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately prior to the transition date.

[(c) TIME OF PAYMENTS.—Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable.

[(d) DETERMINATION OF AMOUNT DUE.—The determination by the Corporation of the amounts due under this section shall be final and conclusive.

[SEC. 1311. COOPERATION WITH OTHER AGENCIES.

[The Corporation may request to use on a reimbursable basis 2297b–10. the available services, equipment, personnel, and facili-

ties of agencies of the United States, and on a similar basis may cooperate with such agencies in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of State, territorial, municipal, or other local agencies.

[SEC. 1312. APPLICABILITY OF CERTAIN FEDERAL LAWS.

[(a) ANTITRUST LAWS.—The Corporation shall conduct its activities in a manner consistent with the policies expressed in the following antitrust laws:

[(1) The Sherman Act (15 U.S.C. 1–7).

[(2) The Clayton Act (15 U.S.C. 12–27).

[(3) Sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9).

[(b) ENVIRONMENTAL LAWS.—The Corporation shall be subject to, and comply with, all Federal and State, interstate, and local environmental laws and requirements, both substantive and procedural, in the same manner, and to the same extent, as any person who is subject to such laws and requirements. For purposes of enforcing any such law or substantive or procedural requirements (including any injunctive relief, administrative order, or civil or administrative penalty or fine) against the Corporation, the United States expressly waives any immunity otherwise applicable to the Corporation. For the purposes of this subsection, the term ''person'' means any individual, trust, firm, joint stock company, corporation, partnership, association, State, municipality, or political subdivision of a State.

[(c) OSHA REQUIREMENTS.—Notwithstanding sections 3(5), 4(b)(1), and 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 652(5), 653(b)(1), and 668)), the Corporation shall be subject to, and comply with, such Act and all regulations and standards promulgate hereunder in the same manner, and to the same extent, as an employer is subject to such Act. For the purposes of enforcing such Act (including any injunctive relief, administrative order, or civil, administrative, or crimininal penalty or fine) against the Corporation, the United States expressly waives any immunity otherwise applicable to the Corporation.

[(d) LABOR STANDARDS.—The Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.) and the Service Contract Act of 1965 (41 U.S.C. 351 et seq.) shall apply to the Corporation. All laborers and mechanics employed on the construction, alteration, or repair of projects funded, in whole or in part, by the Corporation shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with such Act of March 3, 1931. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267) and the Act of June 13, 1934 (40 U.S.C. 276c).

[(e) ENERGY REORGANIZATION ACT REQUIREMENTS.—The Corporation is subject to the provisions of section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5850) to the same extent as an employer subject to such section, and, with respect to the oper-

ation of the facilities leased by the Corporation, section 206 of the Energy Reorganization Act of 1974 (42 U.S.C. 5846) shall apply to the directors and officers of the Corporation.

[(f) EXEMPTION FROM FEDERAL PROPERTY REQUIREMENTS.—The Corporation shall not be subject to the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 471 et seq.).

[SEC. 1313. SECURITY.

[Any references to the term "Commission" or to the Department in sections 161k., 221a., and 230 shall be considered to include the Corporation.

SEC. 1314. CONTROL OF INFORMATION.

[(a) IN GENERAL.—Except as provided in subsection (b), the Corporation may protect trade secrets and commercial or financial information to the same extent as a privately owned corporation.

[(b) OTHER APPLICABLE LAWS.—Section 552(d) of title 5, United States Code, shall apply to the Corporation, and such information shall be subject to the applicable provisions of law protecting the confidentiality of trade secrets and business and financial information, including section 1905 of title 18, United States Code.

SEC. 1315. TRANSITION.

[(a) TRANSITION MANAGER.—Within 30 days after the date of the enactment of this title, the President shall appoint a Transition Manager, who shall serve at the pleasure of the President until a quorum of the Board has been appointed and confirmed in accordance with section 1304.

[(b) POWERS.—

[(1) IN GENERAL.—Until a quorum of the Board has qualified, the Transition Manager shall exercise the powers and duties of the Board and shall be responsible for taking all actions needed to effect the transfer of the uranium enrichment enterprise from the Secretary to the Corporation on the transition date.

(2) CONTINUATION UNTIL BOARD HAS QUORUM.—In the event that a quorum of the Board has not qualified by the transition date, the Transition Manager shall continue to exercise the powers and duties of the Board until a quorum has qualified.

[(c) RATIFICATION OF TRANSITION MANAGER'S ACTIONS.—All actions taken by the Transition Manager before the qualification of a quorum of the Board shall be subject to ratification by the Board.

[(d) RESPONSIBILITIES OF SECRETARY.—Before the transition date, the Secretary shall—

(1) continue to be responsible for the management and operation of the uranium enrichment plants;

(2) provide funds, to the extent provided in appropriations Acts, to the Transition Manager to pay salaries and expenses;

(3) delegate Department employees to assist the Transition Manager in meeting his responsibilities under this section; and

(4) assist and cooperate with the Transition Manager in preparing for the transfer of the uranium enrichment enterprise to the Corporation on the transition date.

[(e) TRANSITION DATE.—The transition date shall be July 1, 1993.

[(f) DETAIL OF PERSONNEL.—For the purpose of continuity of operations, maintenance, and authority, the Department shall detail, for up to 18 months after the date of the enactment of this title, appropriate Department personnel as may be required in an acting capacity, until such time as a Board is confirmed and top officers of the Corporation are hired. The Corporation shall reimburse the Department and its contractors for the detail of such personnel.

[SEC. 1316. WORKING CAPITAL ACCOUNT.

[There shall be established within the Corporation a Working Capital Account in which the Corporation may retain all revenue necessary for legitimate business expenses, or investments, related to carrying out its purposes.]

[CHAPTER 24—RIGHTS, PRIVILEGES, AND ASSETS OF THE CORPORATION

[SEC. 1401. MARKETING AND CONTRACTING AUTHORITY.

[(a) EXCLUSIVE MARKETING AGENT.—The Corporation shall act as the exclusive marketing agent on behalf of the United States Government for entering into contracts for providing enriched uranium (including low-enriched uranium derived from highly enriched uranium) and uranium enrichment and related services. The Department may not market enriched uranium (including low-enriched uranium derived from highly enriched uranium), or uranium enrichment and related services, after the transition date.

[(b) TRANSFER OF CONTRACTS.—

[(1) IN GENERAL.—Except as provided in paragraph (2), all contracts, agreements, and leases with the Department, including all uranium enrichment contracts and power purchase contracts, that have been executed by the Department before the transition date and that relate to uranium enrichment and related services shall transfer to the Corporation.

(2) EXCEPTIONS.—

[(A) TVA SETTLEMENT.—The rights and responsibilities of the Department under the settlement agreement with the Tennessee Valley Authority, filed on December 18, 1987, with the United States Claims Court, shall not transfer to the Corporation.

[(B) NONTRANSFERABLE POWER CONTRACTS.—If the Secretary determines that a power purchase contract executed by the Department prior to the transition date cannot be transferred under its terms, the Secretary may continue to receive power under the contract and resell such power to the Corporation at cost.

[(C) NONPOWER APPLICATIONS.—Contracts for enriched uranium and uranium services in existence as of the date of the enactment of this title for research and development or other nonpower applications shall remain with the Department. At the request of the Department, the Corporation, in consultation with the Department, may enter into such contracts it determines to be appropriate.

[SEC. 1402. PRICING.

[(a) SERVICES PROVIDED TO COMMERCIAL CUSTOMERS.—The Corporation shall establish prices for its products, materials, and serv-

ices provided to customers other than the Department on a basis that will allow it to attain the normal business objectives of a profitmaking corporation.

[(b) SERVICES PROVIDED TO DOE.—The Corporation shall charge prices to the Department for uranium enrichment services provided under section 1303(9) on a basis that will allow it to recover its costs, on a yearly basis, for providing products, materials, and services, and provide for a reasonable profit.

[SEC. 1403. LEASING OF GASEOUS DIFFUSION FACILITIES OF DEPARTMENT.

[(a) IN GENERAL.—The Corporation shall lease the Paducah Gaseous Diffusion Plant in Paducah, Kentucky, the Portsmouth Gaseous Diffusion Plant in Piketon, Ohio, and related property of the Department, for a period of 6 years from the transition date. Thereafter, the Corporation shall have the exclusive option to lease such facilities and related property for additional periods.

[(b) TERMS OF LEASE.—The Corporation and the Department shall set mutually agreeable terms for a lease under subsection (a), including specifying annual payments to the Department by the Corporation to be made. The amount of annual payments shall be equal to the cost incurred by the Department in administering the lease and providing services related to the lease to the Corporation (excluding depreciation and imputed interest on original plant investments in the Department's gaseous diffusion plants and costs under subsection (d)).

[(c) EXCLUSION OF FACILITIES FOR PRODUCTION OF HIGHLY ENRICHED URANIUM.—Subsection (a) shall not apply to Department facilities necessary for the production of highly enriched uranium. The Secretary may grant to the Corporation access to such facilities for purposes other than the production of highly enriched uranium.

[(d) DOE RESPONSIBILITY FOR PREEXISTING CONDITIONS.—The payment of any costs of decontamination and decommissioning, response actions, or corrective actions with respect to conditions existing before the transition date, in connection with property of the Department leased under subsection (a), shall remain the sole responsibility of the Department.

[(e) ENVIRONMENTAL AUDIT.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a comprehensive environmental audit identifying environmental conditions that will remain the responsibility of the Department pursuant to subsection (d) after the transition date. Such audit shall be completed no later than the transition date.

[(f) TREATMENT UNDER PRICE-ANDERSON PROVISIONS.—Any lease executed between the Secretary and the Corporation under this section shall be deemed to be a contract for purposes of section 170 d.

[(g) WAIVER OF EIS REQUIREMENT.—The execution of the lease by the Corporation and the Department shall not be considered a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

[SEC. 1404. CAPITAL STRUCTURE OF CORPORATION.

[(a) CAPITAL STOCK.—

[(1) ISSUANCE TO SECRETARY OF TREASURY.—The Corporation shall issue capital stock representing an equity investment equal to the greater of—

[(A) $3,000,000,000; or

[(B) the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for fiscal year 1991, modified to reflect continued depreciation and other usual changes that occur up to the transfer date.

[The Secretary of the Treasury shall hold such stock for the United States, except that all rights and duties pertaining to management of the Corporation shall remain vested in the Board.

[(2) RESTRICTION ON TRANSFERS OF STOCK BY UNITED STATES.—The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States, except to carry out the privatization of the Corporation under section 1502.

[(3) ANNUAL ASSESSMENT.—The Secretary of the Treasury shall annually assess the value of the stock held by the Secretary under paragraph (1) and submit to the Congress a report setting forth such value. The annual assessment of the Secretary shall be subject to review by an independent auditor.

[(b) PAYMENT OF DIVIDENDS.—The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as is provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. Until privatization occurs under section 1502, the Corporation shall pay as dividends to the Treasury of the United States all net revenues remaining at the end of each fiscal year not required for operating expenses or for deposit into the Working Capital Account established in section 1316.

[(c) PROHIBITION ON ADDITIONAL FEDERAL ASSISTANCE.—Except as otherwise specifically provided in this title, the Corporation shall receive no appropriations, loans, or other financial assistance from the Federal Government.

[(d) SOLE RECOVERY OF UNRECOVERED COSTS.—Receipt by the United States of the proceeds from the sale of stock issued by the Corporation under subsection (a)(1), and the dividends paid under subsection (b), shall constitute the sole recovery by the United States of previously unrecovered costs (including depreciation and imputed interested on original plant investments in the Department's gaseous diffusion plants) that have been incurred by the United States for uranium enrichment activities prior to the transition date.

[SEC. 1405. PATENTS AND INVENTIONS.

[The Corporation may at any time apply to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when the patent has not been declared to be affected with the public interest under section 153 a. and when use of the patent is within the Corporation's authority. An

application shall constitute an application under section 153 c. subject to section 153 c., d., e., f., g., and h.

[SEC. 1406. LIABILITIES.

[(a) LIABILITIES BASED ON OPERATIONS BEFORE TRANSITION.—Except as otherwise provided in this title, all liabilities attributable to operation of the uranium enrichment enterprise before the transition date shall remain direct liabilities of the Department.

[(b) JUDGMENTS BASED ON OPERATIONS BEFORE TRANSITION.—Any judgment entered against the Corporation imposing liability arising out of the operation of the uranium enrichment enterprise before the transition date shall be considered a judgment against and shall be payable solely by the Department.

[(c) REPRESENTATION.—With regard to any claim seeking to impose liability under subsection (a) or (b), the United States shall be represented by the Department of Justice.

[(d) JUDGMENTS BASED ON OPERATIONS AFTER TRANSITION.—Any judgment entered against the Corporation arising from operations of the Corporation on or after the transition date shall be payable solely by the Corporation from its own funds. The Corporation shall not be considered a Federal agency for purposes of chapter 171 of title 28, United States Code.

[SEC. 1407. TRANSFER OF URANIUM INVENTORIES.

[The Secretary shall transfer to the Corporation without charge all raw and low-enriched uranium inventories of the Department necessary for the fulfillment of contracts transferred under section 1401(b).

[SEC. 1408. PURCHASE OF HIGHLY ENRICHED URANIUM FROM FORMER SOVIET UNION.

[(a) IN GENERAL.—The Corporation is authorized to negotiate the purchase of all highly enriched uranium made available by any State of the former Soviet Union under a government-to-government agreement or shall assume the obligations of the Department under any contractual agreement that has been reached with any such State or any private entity before the transition date. The Corporation may only purchase this material so long as the quality of the material can be made suitable for use in commercial reactors.

[(b) ASSESSMENT OF POTENTIAL USE.—The Corporation shall prepare an assessment of the potential use of highly enriched uranium in the business operations of the Corporation.

[(c) PLAN FOR BLENDING AND CONVERSION.—In the event that the agreement under subsection (a) provides for the Corporation to provide for the blending and conversion the assessment shall include a plan for such blending and conversion. The plan shall determine the least-cost approach to providing blending and conversion services, compatible with environmental, safety, security, and nonproliferation requirements. The plan shall include a competitive process that the Corporation shall use for selecting a provider of such services, including the public solicitation of proposals from the private sector to allow a determination of the least-cost approach.

[(d) MINIMIZATION OF IMPACT ON DOMESTIC INDUSTRIES.—The Corporation shall seek to minimize the impact on domestic indus-

tries (including uranium mining) of the sale of low-enriched uranium derived from highly enriched uranium.]

[CHAPTER 25—PRIVATIZATION OF THE CORPORATION

[SEC. 1501. STRATEGIC PLAN FOR PRIVATIZATION.

[(A) IN GENERAL.—Within 2 years after the transition date, the Corporation shall prepare a strategic plan for transferring ownership of the Corporation to private investors. The Corporation shall revise the plan as needed.

[(b) CONSIDERATION OF ALTERNATIVE MEANS OF TRANSFERRING OWNERSHIP.—The plan shall include consideration of alternative means for transferring ownership of the Corporation to private investors, including public stock offering, private placement, or merger or acquisition. The plan may call for the phased transfer of ownership or for complete transfer at a single point of time. If the plan calls for phased transfer of ownership, then—

[(1) privatization shall be deemed to occur when 100 percent of ownership has been transferred to private investors;

[(2) prior to privatization, such stock shall be nonvoting stock; and

[(3) at the time of privatization, such stock shall convert to voting stock.

[(c) EVALUATION AND RECOMMENDATION.—The plan shall evaluate the relative merits of the alternatives considered and the estimated return on the Government's investment in the Corporation achievable through each alternative. The plan shall include the Corporation's recommendation on its preferred means of privatization.

[(d) TRANSMITTAL.—The Corporation shall transmit copies of the strategic plan for privatization to the President and Congress upon completion.

[SEC. 1502. PRIVATIZATION.

[(a) IMPLEMENTATION.—Subsequent to transmitting a plan for privatization pursuant to section 1501, and subject to subsections (b) and (c), the Corporation may implement the privatization plan if the Corporation determines, in consultation with appropriate agencies of the United States, that privatization will—

[(1) result in a return to the United States at least equal to the net present value of the Corporation;

[(2) not result in the Corporation being owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government;

[(3) not be inimical to the health and safety of the public or the common defense and security; and

[(4) provide reasonable assurance that adequate enrichment capacity will remain available to meet the domestic electric utility industry.

[(b) REQUIREMENT OF PRESIDENTIAL APPROVAL.—The Corporation may not implement the privatization plan without the approval of the President.

[(c) NOTIFICATION OF CONGRESS AND GAO EVALUATION.—The Corporation shall notify the Congress of its intent to implement the privatization plan. Within 30 days of notification, the Comptroller

General shall submit a report to Congress evaluating the extent to which—

[(1) the privatization plan would result in any ongoing obligation or undue cost to the Federal Government; and

[(2) the revenues gained by the Federal Government under the privatization plan would represent at least the net present value of the Corporation.

[(d) PERIOD FOR CONGRESSIONAL REVIEW.—The Corporation may not implement the privatization plan less than 60 days after notification of the Congress.

[(e) DEPOSIT OF PROCEEDS.—Proceeds from the sale of capital stock of the Corporation under this section shall be deposited in the general fund of the Treasury.]

[CHAPTER 26—AVLIS AND ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT

[SEC. 1601. ASSESSMENT BY UNITED STATES ENRICHMENT CORPORATION.

[(a) IN GENERAL.—The Corporation shall prepare an assessment of the economic viability of proceeding with the commercialization of AVLIS and alternative technologies for uranium enrichment in accordance with this chapter. The assessment shall include—

[(1) an evaluation of market conditions together with a marketing strategy;

[(2) an analysis of the economic viability of competing enrichment technologies;

[(3) an identification of predeployment and capital requirements for the commercialization of AVLIS and alternative technologies for uranium enrichment;

[(4) an estimate of potential earnings from licensing of AVLIS and alternative technologies for uranium enrichment to a private government sponsored corporation;

[(5) an analysis of outstanding and potential patent and related claims with respect to AVLIS and alternative technologies for uranium enrichment, and a plan for resolving such claims; and

[(6) a contingency plan for providing enriched uranium and related services in the event that deployment of AVLIS and alternative technologies for uranium enrichment is determined not to be economically viable.

[(b) DETERMINATION BY CORPORATION TO PROCEED WITH COMMERCIALIZATION OF AVLIS OR ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT.—The succeeding sections of this chapter shall apply only to the extent the Corporation determines in its business judgment, on the basis of the assessment prepared under subsection (a), to proceed with the commercialization of AVLIS or alternative technologies for uranium enrichment.

[SEC. 1602. TRANSFER OF RIGHTS AND PROPERTY TO UNITED STATES ENRICHMENT CORPORATION.

[(a) EXCLUSIVE RIGHT TO COMMERCIALIZE.—The Corporation shall have the exclusive commercial right to deploy and use any AVLIS patents, processes, and technical information owned or controlled by the Government, upon completion of a royalty agreement with the Department.

[(b) TRANSFER OF RELATED PROPERTY TO CORPORATION.—

[(1) IN GENERAL.—To the extent requested by the Corporation, the President shall transfer without charge to the Corporation all of the Department's right, title, or interest in and to property owned by the Department, or by the United States but under control or custody of the Department, that is directly related to and materially useful in the performance of the Corporation's purposes regarding AVLIS and alternative technologies for uranium enrichment, including—

[(A) facilities, equipment, and materials for research, development, and demonstration activities; and

[(B) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases.

[(2) EXCEPTION.—Facilities, real estate, improvements, and equipment related to the gaseous diffusion, and gas centrifuge, uranium enrichment programs of the Department shall not transfer under paragraph (1)(B).

[(3) EXPIRATION OF TRANSFER AUTHORITY.—The President's authority to transfer property under this subsection shall expire upon privatization under section 1502.

[(c) LIABILITY FOR PATENT AND RELATED CLAIMS.—With respect to any right, title, or interest provided to the Corporation under subsection (a) or (b), the Corporation shall have sole liability for any payments made or awards under section 157 b. (3), or any settlements or judgments involving claims for alleged patent infringement. Any royalty agreement under subsection (a) shall provide for a reduction of royalty payments to the Department to offset any payments, awards, settlements, or judgments under this subsection.

[SEC. 1603. PREDEPLOYMENT ACTIVITIES BY UNITED STATES ENRICHMENT CORPORATION.

[The Corporation may begin activities necessary to prepare AVLIS or alternative technologies for uranium enrichment for commercialization including—

[(1) completion of preapplication activities with the Nuclear Regulatory Commission;

[(2) preparation of a transition plan to move AVLIS or alternative technologies for uranium enrichment from the laboratory to the marketplace;

[(3) confirmation of technical performance;

[(4) validation of economic projections;

[(5) completion of feasibility and risk studies;

[(6) initiation of preliminary plant design and engineering; and

[(7) site selection, site characterization, and environmental documentation activities on the basis of site evaluations and recommendations prepared for the Department by the Argonne National Laboratory.

[SEC. 1604. UNITED STATES ENRICHMENT CORPORATION SPONSORSHIP OF PRIVATE FOR-PROFIT CORPORATION TO CONSTRUCT AVLIS AND ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT.

[(a) ESTABLISHMENT.—

[(1) IN GENERAL.—If the Corporation determines to proceed with the commercialization of AVLIS or alternative technologies for uranium enrichment under this chapter, the Corporation may provide for the establishment of a private for-profit corporation, which shall have as its initial purpose the construction of a uranium enrichment facility using AVLIS technology or alternative technologies for uranium enrichment.

[(2) PROCESS OF ORGANIZATION.—For purposes of the establishment of the private corporation under paragraph (1), the Corporation shall appoint not less than 3 persons to be incorporators. The incorporators so appointed shall each sign the articles of incorporation and shall serve as the initial board of directors until the members of the 1st regular board of directors shall have been appointed and elected. Such incorporators shall take whatever actions are necessary or appropriate to establish the private corporation, including the filing of articles of incorporation in such jurisdiction as the incorporators determine to be appropriate. The incorporators shall also develop a plan for the issuance by the private corporation of voting common stock to the public, which plan shall be subject to the approval of the Secretary of the Treasury.

[(b) LEGAL STATUS OF PRIVATE CORPORATION.—

[(1) NOT FEDERAL AGENCY.—The private corporation established under subsection (a) shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a Government corporation or Government controlled corporation.

[(2) NO RECOURSE AGAINST UNITED STATES.—Obligations of the private corporation established under subsection (a) shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

[(3) NO CLAIMS COURT JURISDICTION.—No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the private corporation established under subsection (a).

[(c) TRANSACTIONS BETWEEN UNITED STATES ENRICHMENT CORPORATION AND PRIVATE CORPORATION.—

[(1) GRANTS FROM USEC.—The Corporation may make grants to the private corporation established under subsection (a) from amounts available in the AVLIS Commercialization Fund. Such grants shall be used by the private corporation to carry out any remaining predeployment activity assigned to the private corporation by the Corporation. Such grants may not be used for the costs of constructing an AVLIS, or alternative technologies for uranium enrichment, production facility or engaging in directly related preconstruction activities (other than such assigned predeployment activities). The aggregate amount of such grants shall not exceed $364,000,000.

[(2) LICENSING AGREEMENT.—The Corporation shall license to the private corporation established under subsection (a) the rights, titles, and interests provided to the Corporation under section 1602. The licensing agreement shall require the private corporation to make periodic payments to the Corporation in

an amount that is not less than the aggregate amounts paid by the Corporation during the period involved under subsections (a) and (c) of section 1602.

[(3) PURCHASE AGREEMENT.—The Corporation may enter into a commitment to purchase all enriched uranium produced at an AVLIS, or alternative technologies for uranium enrichment, facility of the private corporation established under subsection (a) at a price negotiated by the 2 corporations that

[(A) provides the private corporation with a reasonable return on its investment; and

[(B) is less costly than enriched uranium available from other sources.

[(4) ADDITIONAL ASSISTANCE.—The Corporation may provide to the private corporation established under subsection (a), on a reimbursable basis, such additional personnel, services, and equipment as the 2 corporations may determine to be appropriate.

[SEC. 1605. AVLIS COMMERCIALIZATION FUND WITHIN UNITED STATES ENRICHMENT CORPORATION.

[(a) ESTABLISHMENT.—The Corporation may establish within the Corporation an AVLIS Commercialization Fund, which shall consist of not more than $364,000,000 paid into the Fund by the Corporation from amounts provided in appropriation Acts for such purposes and from the retained earnings of the Corporation.

[(b) EXPENDITURES FROM FUND.—Amounts in the AVLIS Commercialization Fund shall be available for—

[(1) expenses of the Corporation in preparing the assessment under section 1601;

[(2) expenses of predeployment activities under section 1603; and

[(3) grants to the private corporation under section 1604.

[(c) LIMITATIONS.—

[(1) EXCLUSIVE SOURCE OF FUNDS.—The Corporation may not incur any obligation, or expend any amount, with respect to AVLIS or alternative technologies for uranium enrichment, except from amounts available in the AVLIS Commercialization Fund.

[(2) UNAVAILABLE FOR CONSTRUCTION COSTS.—No amount may be used from the AVLIS Commercialization Fund for the costs of constructing an AVLIS, or alternative technologies for uranium enrichment, production facility or engaging in directly related preconstruction activities (other than activities specified in subsection (b)).

[(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $364,000,000 from the Uranium Enrichment Special Fund for purposes of this section.

[(e) COST REPORT.—On the basis of the assessment under section 1601(a)(3), the Corporation shall submit to the Congress a report on the capital requirements for commercialization of AVLIS.

[SEC. 1606. DEPARTMENT RESEARCH AND DEVELOPMENT ASSISTANCE.

[If requested by the Corporation, the Secretary shall provide, on a reimbursable basis, research and development of AVLIS and alternative technologies for uranium enrichment.

[SEC. 1607. SITE SELECTION.

[This chapter shall not prejudice consideration of the site of an existing uranium enrichment facility as a candidate site for future expansion or replacement of uranium enrichment capacity through AVLIS or alternative technologies for uranium enrichment. Selection of a site for the AVLIS, or alternative technologies for uranium enrichment, facility shall be made on a competitive basis, taking into consideration economic performance, environmental compatibility, and use of any existing uranium enrichment facilities.

[SEC. 1608. EXCLUSION FROM PRICE-ANDERSON COVERAGE.

[Section 170 shall not apply to any license under section 53, 63, or 103 for a uranium enrichment facility constructed after the date of the enactment of this title.]

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